

1 A bill to be entitled
2 An act relating to the Streamlined Sales and Use Tax
3 Agreement; amending s. 212.02, F.S.; revising definitions;
4 amending s. 212.03, F.S.; specifying certain facilities
5 that are exempt from the transient rentals tax; amending
6 ss. 212.0306, 212.04, and 212.0506, F.S.; deleting the
7 application of brackets for the calculation of sales and
8 use taxes; amending s. 212.05, F.S.; deleting criteria
9 establishing circumstances under which taxes on the lease
10 or rental of a motor vehicle are due; revising criteria
11 establishing circumstances under which taxes on the sale
12 of a prepaid calling arrangement are due; deleting the
13 application of brackets for the calculation of sales and
14 use taxes; amending s. 212.054, F.S.; limiting the \$5,000
15 cap on discretionary sales surtax to the sale of motor
16 vehicles, aircraft, boats, manufactured homes, modular
17 homes, and mobile homes; specifying the time at which
18 changes in surtaxes may take effect; providing criteria to
19 determine the situs of certain sales; providing for
20 databases to identify taxing jurisdictions; providing
21 criteria to hold purchasers harmless for failure to pay
22 the correct amount of tax; holding sellers harmless for
23 failing to collect a tax at a new rate under certain
24 circumstances; amending s. 212.06, F.S.; defining terms;
25 deleting provisions relating to mail-order sales to
26 conform; requiring purchasers of direct mail to use
27 direct-mail forms; providing criteria for determining the
28 location of transactions involving tangible personal

property, digital goods, or services and for the lease or rental of tangible personal property; amending s. 212.07, F.S.; conforming a cross-reference; providing for the creation of a taxability matrix; providing immunity from liability for acts in reliance of the taxability matrix; amending s. 212.08, F.S.; revising exemptions from sales and use tax for food and medical products; conforming cross-references; creating s. 212.094, F.S.; providing a procedure for a purchaser to obtain a refund of or credit against tax collected by a dealer; amending s. 212.12, F.S.; authorizing collection allowances for certified service providers and voluntary sellers in accordance with the Streamlined Sales and Use Tax Agreement; providing for the computation of taxes due based on rounding instead of brackets; amending s. 212.17, F.S.; providing additional criteria for a dealer to claim a credit for or obtain a refund of taxes paid relating to worthless accounts; amending s. 212.18, F.S.; authorizing the Department of Revenue to waive the dealer registration fee for applications submitted through the central electronic registration system provided by member states of the Streamlined Sales and Use Tax Agreement; deleting provisions relating to mail-order sales to conform; amending s. 212.20, F.S.; deleting procedures for refunds of tax paid on mail-order sales to conform; creating s. 213.052, F.S.; providing for notice of state sales or use tax rate changes; creating s. 213.0521, F.S.; providing the effective date for state sales and use tax rate

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changes; creating s. 213.215, F.S.; providing amnesty for uncollected or unpaid sales and use taxes for sellers who register under the Streamlined Sales and Use Tax Agreement; providing exceptions to the amnesty; amending s. 213.256, F.S.; providing and revising definitions; providing for entry into agreements with other states to simplify and facilitate compliance with sales tax laws; providing for certification of compliance with agreements; creating s. 213.2562, F.S.; providing for the department to review software submitted to the governing board for certification as a certified automated system; creating s. 213.2567, F.S.; providing for the registration of sellers, the certification of a person as a certified service provider, and the certification of a software program as a certified automated system by the governing board under the Streamlined Sales and Use Tax Agreement; declaring legislative intent; providing for the adoption of emergency rules; amending ss. 11.45, 196.012, 202.18, 203.01, 212.031, 212.052, 212.055, 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045, 288.11621, 288.1169, 551.102, and 790.0655, F.S.; conforming cross-references; repealing s. 212.0596, F.S., relating to provisions pertaining to the taxation of mail-order sales; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 212.02, Florida Statutes, is amended to

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85 read:

86 212.02 Definitions.—The following terms and phrases when
87 used in this chapter have the meanings ascribed to them in this
88 section, except where the context clearly indicates a different
89 meaning. The term:

90 (1) ~~The term~~ "Admissions" means and includes the net sum
91 of money after deduction of any federal taxes for admitting a
92 person or vehicle or persons to any place of amusement, sport,
93 or recreation or for the privilege of entering or staying in any
94 place of amusement, sport, or recreation, including, but not
95 limited to, theaters, outdoor theaters, shows, exhibitions,
96 games, races, or any place where charge is made by way of sale
97 of tickets, gate charges, seat charges, box charges, season pass
98 charges, cover charges, greens fees, participation fees,
99 entrance fees, or other fees or receipts of anything of value
100 measured on an admission or entrance or length of stay or seat
101 box accommodations in any place where there is any exhibition,
102 amusement, sport, or recreation, and all dues and fees paid to
103 private clubs and membership clubs providing recreational or
104 physical fitness facilities, including, but not limited to,
105 golf, tennis, swimming, yachting, boating, athletic, exercise,
106 and fitness facilities, except physical fitness facilities owned
107 or operated by any hospital licensed under chapter 395.

108 (2) "Agricultural commodity" means horticultural,
109 aquacultural, poultry and farm products, and livestock and
110 livestock products.

111 (3) "Agricultural production" means the production of
112 plants and animals useful to humans, including the preparation,

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planting, cultivating, or harvesting of these products or any
other practices necessary to accomplish production through the
harvest phase, which includes aquaculture, horticulture,
floriculture, viticulture, forestry, dairy, livestock, poultry,
bees, and all other forms of farm products and farm production.

(4) "Bundled transaction" means the retail sale of two or
more products, except real property and services to real
property, in which the products are otherwise distinct and
identifiable and the products are sold for one nonitemized
price. A bundled transaction does not include the sale of any
products in which the sales price varies, or is negotiable,
based on the selection by the purchaser of the products included
in the transaction.

(a) As used in this subsection, the term:

1. "Distinct and identifiable products" does not include:

a. Packaging, such as containers, boxes, sacks, bags, and
bottles or other materials, such as wrapping, labels, tags, and
instruction guides, which accompany the retail sale of the
products and are incidental or immaterial to the retail sale of
the products. Examples of packaging that is incidental or
immaterial include grocery sacks, shoeboxes, dry cleaning
garment bags, and express delivery envelopes and boxes.

b. A product provided free of charge with the required
purchase of another product. A product is provided free of
charge if the sales price of the product purchased does not vary
depending on the inclusion of the product provided free of
charge.

2. "One nonitemized price" does not include a price that

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141 is separately identified by product on binding sales or other
142 supporting sales-related documentation made available to the
143 customer in paper or electronic form, including, but not limited
144 to, an invoice, bill of sale, receipt, contract, service
145 agreement, lease agreement, periodic notice of rates and
146 services, rate card, or price list.

147 3. "De minimis" means that the seller's purchase price or
148 sales price of the taxable products is 10 percent or less of the
149 total purchase price or sales price of the bundled products.

150 a. Sellers shall use the purchase price or sales price of
151 the products to determine if the taxable products are de
152 minimis. Sellers may not use a combination of the purchase price
153 and sales price of the products to determine if the taxable
154 products are de minimis.

155 b. Sellers shall use the full term of a service contract
156 to determine if the taxable products are de minimis.

157 (b)1. A transaction that otherwise satisfies the
158 definition of a bundled transaction, as defined in this
159 subsection, is not a bundled transaction if it is:

160 a. The retail sale of tangible personal property and a
161 service in which the tangible personal property is essential to
162 the use of the service, is provided exclusively in connection
163 with the service, and the true object of the transaction is the
164 service;

165 b. The retail sale of services in which one service is
166 provided which is essential to the use or receipt of a second
167 service and the first service is provided exclusively in
168 connection with the second service and the true object of the

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transaction is the second service;

c. A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis; or

d. The retail sale of exempt tangible personal property and taxable personal property in which:

(I) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility-enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies; and

(II) The seller's purchase price or sales price of the taxable tangible personal property is 50 percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property to make the determination required in this paragraph.

2.a. Sellers shall use the purchase price or sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis.

b. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis.

(5)~~(2)~~ "Business" means any activity engaged in by any person, or caused to be engaged in by him or her, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be

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197 construed in this chapter to include occasional or isolated
198 sales or transactions involving tangible personal property or
199 services by a person who does not hold himself or herself out as
200 engaged in business or sales of unclaimed tangible personal
201 property under s. 717.122, but includes other charges for the
202 sale or rental of tangible personal property, sales of services
203 taxable under this chapter, sales of or charges of admission,
204 communication services, all rentals and leases of living
205 quarters, other than low-rent housing operated under chapter
206 421, sleeping or housekeeping accommodations in hotels,
207 apartment houses, roominghouses, tourist or trailer camps, and
208 all rentals of or licenses in real property, other than low-rent
209 housing operated under chapter 421, all leases or rentals of or
210 licenses in parking lots or garages for motor vehicles, docking
211 or storage spaces for boats in boat docks or marinas as defined
212 in this chapter and made subject to a tax imposed by this
213 chapter. The term "business" shall not be construed in this
214 chapter to include the leasing, subleasing, or licensing of real
215 property by one corporation to another if all of the stock of
216 both such corporations is owned, directly or through one or more
217 wholly owned subsidiaries, by a common parent corporation; the
218 property was in use prior to July 1, 1989, title to the property
219 was transferred after July 1, 1988, and before July 1, 1989,
220 between members of an affiliated group, as defined in s. 1504(a)
221 of the Internal Revenue Code of 1986, which group included both
222 such corporations and there is no substantial change in the use
223 of the property following the transfer of title; the leasing,
224 subleasing, or licensing of the property was required by an

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unrelated lender as a condition of providing financing to one or more members of the affiliated group; and the corporation to which the property is leased, subleased, or licensed had sales subject to the tax imposed by this chapter of not less than \$667 million during the most recent 12-month period ended June 30. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

(6) "Certified service provider" has the same meaning as provided in s. 213.256.

(7) ~~(3) The terms~~ "Cigarettes," "tobacco," or "tobacco products" referred to in this chapter include all such products as are defined or may be hereafter defined by the laws of the state.

(8) "Coin-operated amusement machine" means any machine operated by coin, slug, token, coupon, or similar device for the purposes of entertainment or amusement. The term includes, but is not limited to, coin-operated pinball machines, music machines, juke boxes, mechanical games, video games, arcade games, billiard tables, moving picture viewers, shooting galleries, and all other similar amusement devices.

(9) "Computer" means an electronic device that accepts information in digital or similar form and manipulates such information for a result based on a sequence of instructions.

(10) "Computer software" means a set of coded instructions

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253 designed to cause a computer or automatic data processing
254 equipment to perform a task.

255 (11)-(4) "Cost price" means the actual cost of articles of
256 tangible personal property without any deductions therefrom on
257 account of the cost of materials used, labor or service costs,
258 transportation charges, or any expenses whatsoever.

259 (12) "Delivery charges" means charges by the seller of
260 personal property or services for preparation and delivery to a
261 location designated by the purchaser of such property or
262 services, including, but not limited to, transportation,
263 shipping, postage, handling, crating, and packing.

264 Notwithstanding any other provision of this section, the term
265 does not include the charges for delivery of direct mail,
266 transportation, shipping, postage, handling, crating, and
267 packing or similar charges if those charges are separately
268 stated on an invoice or similar billing document given to the
269 purchaser and are invoiced at cost with no markup. The exclusion
270 of delivery charges for direct mail shall apply to any sale
271 involving the delivery or mailing of direct mail, printed
272 material that would otherwise be direct mail that results from a
273 transaction that this state considers the sale of a service, or
274 printed material delivered or mailed to a mass audience when the
275 cost of the printed material is not billed directly to the
276 recipients and is the result of a transaction that includes the
277 development of billing information or the provision of data
278 processing services. If a shipment includes exempt property and
279 taxable property, the seller shall tax only the percentage of
280 the delivery charge allocated to the taxable property. The

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seller may allocate the delivery charge by using:

(a) A percentage based on the total sales price of the taxable property compared to the sales price of all property in the shipment; or

(b) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

~~(13)(5)~~ The term "Department" means the Department of Revenue.

(14) "Diesel fuel" means any liquid product, gas product, or any combination thereof, which is used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. The term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as diesel fuel or kerosene. However, the term does not include butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.

(15) "Direct mail" means printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

(16) "Electronic" means relating to technology having

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309 electrical, digital, magnetic, wireless, optical,
310 electromagnetic, or similar capabilities.

311 (17)~~(6)~~ "Enterprise zone" means an area of the state
312 designated pursuant to s. 290.0065. This subsection expires on
313 the date specified in s. 290.016 for the expiration of the
314 Florida Enterprise Zone Act.

315 (18)~~(7)~~ "Factory-built building" means a structure
316 manufactured in a manufacturing facility for installation or
317 erection as a finished building; "factory-built building"
318 includes, but is not limited to, residential, commercial,
319 institutional, storage, and industrial structures.

320 (19) "Farmer" means a person who is directly engaged in
321 the business of producing crops, livestock, or other
322 agricultural commodities. The term includes, but is not limited
323 to, horse breeders, nurserymen, dairy farmers, poultry farmers,
324 cattle ranchers, apiarists, and persons raising fish.

325 (20) "Forest" means the land stocked by trees of any size
326 used in the production of forest products, or formerly having
327 such tree cover, and not currently developed for nonforest use.

328 (21) "Fractional aircraft ownership program" means a
329 program that meets the requirements of 14 C.F.R. part 91,
330 subpart K, relating to fractional ownership operations, except
331 that the program must include a minimum of 25 aircraft owned or
332 leased by the program manager and used in the program.

333 (22)~~(8)~~ "In this state" or "in the state" means within the
334 state boundaries of Florida as defined in s. 1, Art. II of the
335 State Constitution and includes all territory within these
336 limits owned by or ceded to the United States.

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337 (23) ~~(9)~~ The term "Intoxicating beverages" or "alcoholic
338 beverages" referred to in this chapter includes all such
339 beverages as are so defined or may be hereafter defined by the
340 laws of the state.

341 (24) ~~(10)~~ "Lease," "let," or "rental" means leasing or
342 renting of living quarters or sleeping or housekeeping
343 accommodations in hotels, apartment houses, roominghouses,
344 tourist or trailer camps and real property, the same being
345 defined as follows:

346 (a) Every building or other structure kept, used,
347 maintained, or advertised as, or held out to the public to be, a
348 place where sleeping accommodations are supplied for pay to
349 transient or permanent guests or tenants, in which 10 or more
350 rooms are furnished for the accommodation of such guests, and
351 having one or more dining rooms or cafes where meals or lunches
352 are served to such transient or permanent guests; such sleeping
353 accommodations and dining rooms or cafes being conducted in the
354 same building or buildings in connection therewith, shall, for
355 the purpose of this chapter, be deemed a hotel.

356 (b) Any building, or part thereof, where separate
357 accommodations for two or more families living independently of
358 each other are supplied to transient or permanent guests or
359 tenants shall for the purpose of this chapter be deemed an
360 apartment house.

361 (c) Every house, boat, vehicle, motor court, trailer
362 court, or other structure or any place or location kept, used,
363 maintained, or advertised as, or held out to the public to be, a
364 place where living quarters or sleeping or housekeeping

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accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings, shall for the purpose of this chapter be deemed a roominghouse.

(d) In all hotels, apartment houses, and roominghouses within the meaning of this chapter, the parlor, dining room, sleeping porches, kitchen, office, and sample rooms shall be construed to mean "rooms."

(e) A "tourist camp" is a place where two or more tents, tent houses, or camp cottages are located and offered by a person or municipality for sleeping or eating accommodations, most generally to the transient public for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business.

(f) A "trailer camp," "mobile home park," or "recreational vehicle park" is a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers, mobile homes, or recreational vehicles which are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

(g) 1. "Lease," "let," or "rental" also means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A clause for a future option to purchase or to extend an agreement does not preclude an agreement from being a lease or rental. This

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definition shall be used for purposes of the sales and use tax regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or any other provisions of federal, state, or local law. These terms include agreements covering motor vehicles and trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as provided in 26 U.S.C. s. 7701(h)(1). These terms do not include:

a. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

b. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1 percent of the total required payments; or

c. The provision of tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this sub-subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property ~~the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein.~~

2. ~~The term~~ "Lease," "let," or "rental" does not include

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mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, if ~~when~~ such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements.

3. ~~The term~~ "Lease," "let," "rental," or "license" does not include payments made to an owner of high-voltage bulk transmission facilities in connection with the possession or control of such facilities by a regional transmission organization, independent system operator, or similar entity under the jurisdiction of the Federal Energy Regulatory Commission. However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.

(h) "Real property" means the surface land, improvements thereto, and fixtures, and is synonymous with "realty" and "real estate."

(i) "License," ~~as used in this chapter~~ with reference to the use of real property, means the granting of a privilege to use or occupy a building or a parcel of real property for any purpose.

(j) Privilege, franchise, or concession fees, or fees for a license to do business, paid to an airport are not payments for leasing, letting, renting, or granting a license for the use of real property.

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449 (25) "Livestock" includes all animals of the equine,
450 bovine, or swine class, including goats, sheep, mules, horses,
451 hogs, cattle, ostriches, and other grazing animals raised for
452 commercial purposes. The term also includes fish raised for
453 commercial purposes.

454 (26) (a) "Model 1 seller" has the same meaning as provided
455 in s. 213.256.

456 (b) "Model 2 seller" has the same meaning as provided in
457 s. 213.256.

458 (c) "Model 3 seller" has the same meaning as provided in
459 s. 213.256.

460 (27)~~(11)~~ "Motor fuel" means and includes what is commonly
461 known and sold as gasoline and fuels containing a mixture of
462 gasoline and other products.

463 (28)~~(12)~~ "Person" includes any individual, firm,
464 copartnership, joint adventure, association, corporation,
465 estate, trust, business trust, receiver, syndicate, or other
466 group or combination acting as a unit and also includes any
467 political subdivision, municipality, state agency, bureau, or
468 department and includes the plural as well as the singular
469 number.

470 (29) "Power farm equipment" means moving or stationary
471 equipment that contains within itself the means for its own
472 propulsion or power and moving or stationary equipment that is
473 dependent upon an external power source to perform its
474 functions.

475 (30) "Prewritten computer software" means computer
476 software, including prewritten upgrades, which is not designed

477 and developed by the author or other creator to the
478 specifications of a specific purchaser. The combining of two or
479 more prewritten computer software programs or prewritten
480 portions of such programs does not cause the combination to be
481 other than prewritten computer software. Prewritten computer
482 software includes software designed and developed by the author
483 or other creator to the specifications of a specific purchaser
484 when such software is sold to a person other than the specific
485 purchaser. Where a person modifies or enhances computer software
486 of which the person is not the author or creator, the person
487 shall be deemed to be the author or creator only of such
488 person's modifications or enhancements. Prewritten computer
489 software or a prewritten portion of such software which is
490 modified or enhanced to any degree, if such modification or
491 enhancement is designed and developed to the specifications of a
492 specific purchaser, remains prewritten computer software.
493 However, prewritten computer software does not include software
494 that has been modified or enhanced for a particular purchaser if
495 the charge for the enhancement is reasonable and separately
496 stated on the invoice or other statement of price given to the
497 purchaser.

498 (31) "Product transferred electronically" means a product,
499 except computer software, which was obtained by a purchaser by
500 means other than the purchase of tangible storage media.

501 (32) "Qualified aircraft" means any aircraft having a
502 maximum certified takeoff weight of less than 10,000 pounds and
503 equipped with twin turbofan engines that meet Stage IV noise
504 requirements which is used by a business operating as an on-

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demand air carrier under Federal Aviation Administration
Regulation Title 14, chapter I, part 135, Code of Federal
Regulations, which owns or leases and operates a fleet of at
least 25 of such aircraft in this state.

~~(33)(13)~~ "Retailer" means and includes every person
engaged in the business of making sales at retail or for
distribution, or use, or consumption, or storage to be used or
consumed in this state.

~~(34)(14)~~ (a) "Retail sale" or a "sale at retail" means a
sale to a consumer or to any person for any purpose other than
for resale in the form of tangible personal property or services
taxable under this chapter, and includes all such transactions
that may be made in lieu of retail sales or sales at retail. A
sale for resale includes a sale of qualifying property. As used
in this paragraph, the term "qualifying property" means tangible
personal property, other than electricity, which is used or
consumed by a government contractor in the performance of a
qualifying contract as defined in s. 212.08(17)(c), to the
extent that the cost of the property is allocated or charged as
a direct item of cost to such contract, title to which property
vests in or passes to the government under the contract. The
term "government contractor" includes prime contractors and
subcontractors. As used in this paragraph, a cost is a "direct
item of cost" if it is a "direct cost" as defined in 48 C.F.R.
s. 9904.418-30(a)(2), or similar successor provisions, including
costs identified specifically with a particular contract.

(b) ~~The terms~~ "Retail sales," "sales at retail," "use,"
"storage," and "consumption" include the sale, use, storage, or

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consumption of all tangible advertising materials imported or caused to be imported into this state. Tangible advertising material includes displays, display containers, brochures, catalogs, price lists, point-of-sale advertising, and technical manuals or any tangible personal property which does not accompany the product to the ultimate consumer.

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, bags, or similar items intended to accompany a product sold to a customer without which delivery of the product would be impracticable because of the character of the contents and be used one time only for packaging tangible personal property for sale or for the convenience of the customer or for packaging in the process of providing a service taxable under this chapter. When a separate charge for packaging materials is made, the charge shall be considered part of the sales price or rental charge for purposes of determining the applicability of tax. The terms do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product. However, the terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when such items are used and dissipated in fabricating, converting,

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or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means. The terms do not include the sale of materials to a registered repair facility for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into and sold as part of the repair. Such a sale shall be deemed a purchase for resale by the repair facility, even though every material is not separately stated or separately priced on the repair invoice.

(d) "Gross sales" means the sum total of all sales of tangible personal property as defined herein, without any deduction whatsoever of any kind or character, except as provided in this chapter.

~~(e) The term "Retail sale" includes a mail order sale, as defined in s. 212.0596(1).~~

(35) ~~(15)~~ "Sale" means and includes:

(a) Any transfer of title or possession, or both, exchange, barter, license, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) The rental of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses or roominghouses, or tourist or trailer camps, as hereinafter defined in this chapter.

(c) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the

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materials used in the producing, fabricating, processing, printing, or imprinting.

(d) The furnishing, preparing, or serving for a consideration of any tangible personal property for consumption on or off the premises of the person furnishing, preparing, or serving such tangible personal property which includes the sale of meals or prepared food by an employer to his or her employees.

(e) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price.

(36) (a) ~~(16)~~ "Sales price" applies to the measure subject to the tax imposed by this chapter and means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or personal services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

1. The seller's cost of the property sold;
2. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
3. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
4. Delivery charges; or
5. Installation charges.

(b) "Sales price" does not include:

1. Trade-ins allowed and taken at the time of sale if the

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617 amount is separately stated on the invoice, bill of sale, or
618 similar document given to the purchaser;

619 2. Discounts, including cash, term, or coupons, which are
620 not reimbursed by a third party, are allowed by a seller, and
621 taken by a purchaser at the time of sale;

622 3. Interest, financing, and carrying charges from credit
623 extended on the sale of personal property or services, if the
624 amount is separately stated on the invoice, bill of sale, or
625 similar document given to the purchaser;

626 4. Any taxes legally imposed directly on the consumer
627 which are separately stated on the invoice, bill of sale, or
628 similar document given to the purchaser; or means the total
629 ~~amount paid for tangible personal property, including any~~
630 ~~services that are a part of the sale, valued in money, whether~~
631 ~~paid in money or otherwise, and includes any amount for which~~
632 ~~credit is given to the purchaser by the seller, without any~~
633 ~~deduction therefrom on account of the cost of the property sold,~~
634 ~~the cost of materials used, labor or service cost, interest~~
635 ~~charged, losses, or any other expense whatsoever. "Sales price"~~
636 ~~also includes the consideration for a transaction which requires~~
637 ~~both labor and material to alter, remodel, maintain, adjust, or~~
638 ~~repair tangible personal property. Trade-ins or discounts~~
639 ~~allowed and taken at the time of sale shall not be included~~
640 ~~within the purview of this subsection. "Sales price" also~~
641 ~~includes the full face value of any coupon used by a purchaser~~
642 ~~to reduce the price paid to a retailer for an item of tangible~~
643 ~~personal property; where the retailer will be reimbursed for~~
644 ~~such coupon, in whole or in part, by the manufacturer of the~~

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~~item of tangible personal property; or whenever it is not practicable for the retailer to determine, at the time of sale, the extent to which reimbursement for the coupon will be made. The term "sales price" does not include federal excise taxes imposed upon the retailer on the sale of tangible personal property. The term "sales price" does include federal manufacturers' excise taxes, even if the federal tax is listed as a separate item on the invoice. To the extent required by federal law, the term "sales price" does not include~~

5. Charges for Internet access services which are not itemized on the customer's bill, but which can be reasonably identified from the selling dealer's books and records kept in the regular course of business. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state.

(37) "Sea trial" means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, in a form required by the department, what repairs have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.

(38) "Seller" means a person making sales, leases, or rentals of personal property or services.

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673 (39) "Solar energy system" means the equipment and
674 requisite hardware that provide and are used for collecting,
675 transferring, converting, storing, or using incident solar
676 energy for water heating, space heating, cooling, or other
677 applications that would otherwise require the use of a
678 conventional source of energy such as petroleum products,
679 natural gas, manufactured gas, or electricity.

680 (40) "Space flight" means any flight designed for
681 suborbital, orbital, or interplanetary travel of a space
682 vehicle, satellite, or station of any kind.

683 (41) "Spaceport activities" means activities directed or
684 sponsored by Space Florida on spaceport territory pursuant to
685 its powers and responsibilities under the Space Florida Act.

686 ~~(17) "Diesel fuel" means any liquid product, gas product,~~
687 ~~or combination thereof used in an internal combustion engine or~~
688 ~~motor to propel any form of vehicle, machine, or mechanical~~
689 ~~contrivance. This term includes, but is not limited to, all~~
690 ~~forms of fuel commonly or commercially known or sold as diesel~~
691 ~~fuel or kerosene. However, the term "diesel fuel" does not~~
692 ~~include butane gas, propane gas, or any other form of liquefied~~
693 ~~petroleum gas or compressed natural gas.~~

694 (42)~~(18)~~ "Storage" means and includes any keeping or
695 retention in this state of tangible personal property for use or
696 consumption in this state or for any purpose other than sale at
697 retail in the regular course of business.

698 (43) "Streamlined Sales and Use Tax Agreement" has the
699 same meaning as in s. 213.256.

700 (44)~~(19)~~ "Tangible personal property" means and includes

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personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, water, gas, steam, prewritten computer software, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes, insurance, ~~or~~ other obligations or securities, any product transferred electronically, or pari-mutuel tickets sold or issued under the racing laws of the state.

~~(45)(20)~~ "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. The term "use" does not include:

(a) The loan of an automobile by a motor vehicle dealer to a high school for use in its driver education and safety program. ~~The term "use" does not include; or~~

(b) A contractor's use of "qualifying property" as defined by paragraph (34)(a) ~~paragraph (14)(a).~~

~~(46)(21)~~ ~~The term "Use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined.~~

(47) "Voluntary seller" or "volunteer seller" means a seller that is not required to register in this state to collect the tax imposed by this chapter.

~~(22)~~ ~~"Spaceport activities" means activities directed or sponsored by Space Florida on spaceport territory pursuant to~~

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~~its powers and responsibilities under the Space Florida Act.~~

~~(23) "Space flight" means any flight designed for suborbital, orbital, or interplanetary travel of a space vehicle, satellite, or station of any kind.~~

~~(24) "Coin-operated amusement machine" means any machine operated by coin, slug, token, coupon, or similar device for the purposes of entertainment or amusement. The term includes, but is not limited to, coin-operated pinball machines, music machines, juke boxes, mechanical games, video games, arcade games, billiard tables, moving picture viewers, shooting galleries, and all other similar amusement devices.~~

~~(25) "Sea trial" means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, in a form required by the department, what repairs have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.~~

~~(26) "Solar energy system" means the equipment and requisite hardware that provide and are used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity.~~

757 ~~(27) "Agricultural commodity" means horticultural,~~
758 ~~aquacultural, poultry and farm products, and livestock and~~
759 ~~livestock products.~~

760 ~~(28) "Farmer" means a person who is directly engaged in~~
761 ~~the business of producing crops, livestock, or other~~
762 ~~agricultural commodities. The term includes, but is not limited~~
763 ~~to, horse breeders, nurserymen, dairy farmers, poultry farmers,~~
764 ~~cattle ranchers, apiarists, and persons raising fish.~~

765 ~~(29) "Livestock" includes all animals of the equine,~~
766 ~~bovine, or swine class, including goats, sheep, mules, horses,~~
767 ~~hogs, cattle, ostriches, and other grazing animals raised for~~
768 ~~commercial purposes. The term "livestock" shall also include~~
769 ~~fish raised for commercial purposes.~~

770 ~~(30) "Power farm equipment" means moving or stationary~~
771 ~~equipment that contains within itself the means for its own~~
772 ~~propulsion or power and moving or stationary equipment that is~~
773 ~~dependent upon an external power source to perform its~~
774 ~~functions.~~

775 ~~(31) "Forest" means the land stocked by trees of any size~~
776 ~~used in the production of forest products, or formerly having~~
777 ~~such tree cover, and not currently developed for nonforest use.~~

778 ~~(32) "Agricultural production" means the production of~~
779 ~~plants and animals useful to humans, including the preparation,~~
780 ~~planting, cultivating, or harvesting of these products or any~~
781 ~~other practices necessary to accomplish production through the~~
782 ~~harvest phase, and includes aquaculture, horticulture,~~
783 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~
784 ~~bees, and any and all forms of farm products and farm~~

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785 ~~production.~~

786 ~~(33) "Qualified aircraft" means any aircraft having a~~
787 ~~maximum certified takeoff weight of less than 10,000 pounds and~~
788 ~~equipped with twin turbofan engines that meet Stage IV noise~~
789 ~~requirements that is used by a business operating as an on-~~
790 ~~demand air carrier under Federal Aviation Administration~~
791 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~
792 ~~Regulations, that owns or leases and operates a fleet of at~~
793 ~~least 25 of such aircraft in this state.~~

794 ~~(34) "Fractional aircraft ownership program" means a~~
795 ~~program that meets the requirements of 14 C.F.R. part 91,~~
796 ~~subpart K, relating to fractional ownership operations, except~~
797 ~~that the program must include a minimum of 25 aircraft owned or~~
798 ~~leased by the program manager and used in the program.~~

799 Section 2. Paragraph (c) of subsection (7) of section
800 212.03, Florida Statutes, is amended to read:

801 212.03 Transient rentals tax; rate, procedure,
802 enforcement, exemptions.—

803 (7)

804 (c) The rental of facilities in a trailer camp, mobile
805 home park, or recreational vehicle park facilities, as defined
806 in s. 212.02 (24) ~~(10)(f)~~, which are intended primarily for rental
807 as a principal or permanent place of residence is exempt from
808 the tax imposed by this chapter. The rental of such facilities
809 that primarily serve transient guests is not exempt by this
810 subsection. In the application of this law, or in making any
811 determination against the exemption, the department shall
812 consider the facility as primarily serving transient guests

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813 unless the facility owner makes a verified declaration on a form
814 prescribed by the department that more than half of the total
815 rental units available are occupied by tenants who have a
816 continuous residence in excess of 3 months. The owner of a
817 facility declared to be exempt by this paragraph must make a
818 determination of the taxable status of the facility at the end
819 of the owner's accounting year using any consecutive 3-month
820 period at least one month of which is in the accounting year.
821 The owner must use a selected consecutive 3-month period during
822 each annual redetermination. In the event that an exempt
823 facility no longer qualifies for exemption by this paragraph,
824 the owner must notify the department on a form prescribed by the
825 department by the 20th day of the first month of the owner's
826 next succeeding accounting year that the facility no longer
827 qualifies for such exemption. The tax levied by this section
828 shall apply to the rental of facilities that no longer qualify
829 for exemption under this paragraph beginning the first day of
830 the owner's next succeeding accounting year. The provisions of
831 this paragraph do not apply to mobile home lots regulated under
832 chapter 723.

833 Section 3. Subsection (6) of section 212.0306, Florida
834 Statutes, is amended to read:

835 212.0306 Local option food and beverage tax; procedure for
836 levying; authorized uses; administration.—

837 (6) Any county levying a tax authorized by this section
838 must locally administer the tax using the powers and duties
839 enumerated for local administration of the tourist development
840 tax by s. 125.0104, 1992 Supplement to the Florida Statutes

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1991. ~~The county's ordinance shall also provide for brackets applicable to taxable transactions.~~

Section 4. Paragraph (b) of subsection (1) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 6 percent of sales price, or the actual value received from such admissions, which 6 percent shall be added to and collected with all such admissions from the purchaser thereof, and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket must show on its face the actual sales price of the admission, or each dealer selling the admission must prominently display at the box office or other place where the admission charge is made a notice disclosing the price of the admission, and the tax shall be computed and collected on the basis of the actual price of the admission charged by the dealer. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon such admission. The sale price or actual value does not include separately stated ticket service charges that are imposed by a facility ticket office or a ticketing service and added to a separately stated, established ticket price. ~~The rate of tax on each admission shall be according to the brackets established by s. 212.12(9).~~

Section 5. Subsections (6) through (11) of section

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869 212.0506, Florida Statutes, are amended to read:

870 212.0506 Taxation of service warranties.—

871 ~~(6) This tax shall be due and payable according to the~~
872 ~~brackets set forth in s. 212.12.~~

873 (6)~~(7)~~ This tax shall not apply to any portion of the
874 consideration received by any person in connection with the
875 issuance of any service warranty contract upon which such person
876 is required to pay any premium tax imposed under the Florida
877 Insurance Code or under s. 634.313(1).

878 (7)~~(8)~~ If a transaction involves both the issuance of a
879 service warranty that is subject to such tax and the issuance of
880 a warranty, guaranty, extended warranty or extended guaranty,
881 contract, agreement, or other written promise that is not
882 subject to such tax, the consideration shall be separately
883 identified and stated with respect to the taxable and nontaxable
884 portions of the transaction. If the consideration is separately
885 apportioned and identified in good faith, such tax shall apply
886 to the transaction to the extent that the consideration received
887 or to be received in connection with the transaction is payment
888 for a service warranty subject to such tax. If the consideration
889 is not apportioned in good faith, the department may reform the
890 contract; such reformation by the department is to be considered
891 prima facie correct, and the burden to show the contrary rests
892 upon the dealer. If the consideration for such a transaction is
893 not separately identified and stated, the entire transaction is
894 taxable.

895 (8)~~(9)~~ Any claim which arises under a service warranty
896 taxable under this section, which claim is paid directly by the

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person issuing such warranty, is not subject to any tax imposed under this chapter.

(9)~~(10)~~ Materials and supplies used in the performance of a factory or manufacturer's warranty are exempt if the contract is furnished at no extra charge with the equipment guaranteed thereunder and such materials and supplies are paid for by the factory or manufacturer.

(10)~~(11)~~ Any duties imposed by this chapter upon dealers of tangible personal property with respect to collecting and remitting taxes; making returns; keeping books, records, and accounts; and complying with the rules and regulations of the department apply to all dealers as defined in s. 212.06(2)(1).

Section 6. Section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, ~~including the business of making mail order sales,~~ or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at

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925 retail in this state, computed on each taxable sale for the
926 purpose of remitting the amount of tax due the state, and
927 including each and every retail sale.

928 b. Each occasional or isolated sale of an aircraft, boat,
929 mobile home, or motor vehicle of a class or type which is
930 required to be registered, licensed, titled, or documented in
931 this state or by the United States Government shall be subject
932 to tax at the rate provided in this paragraph. The department
933 shall by rule adopt any nationally recognized publication for
934 valuation of used motor vehicles as the reference price list for
935 any used motor vehicle which is required to be licensed pursuant
936 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
937 party to an occasional or isolated sale of such a vehicle
938 reports to the tax collector a sales price which is less than 80
939 percent of the average loan price for the specified model and
940 year of such vehicle as listed in the most recent reference
941 price list, the tax levied under this paragraph shall be
942 computed by the department on such average loan price unless the
943 parties to the sale have provided to the tax collector an
944 affidavit signed by each party, or other substantial proof,
945 stating the actual sales price. Any party to such sale who
946 reports a sales price less than the actual sales price is guilty
947 of a misdemeanor of the first degree, punishable as provided in
948 s. 775.082 or s. 775.083. The department shall collect or
949 attempt to collect from such party any delinquent sales taxes.
950 In addition, such party shall pay any tax due and any penalty
951 and interest assessed plus a penalty equal to twice the amount
952 of the additional tax owed. Notwithstanding any other provision

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953 of law, the Department of Revenue may waive or compromise any
954 penalty imposed pursuant to this subparagraph.

955 2. This paragraph does not apply to the sale of a boat or
956 aircraft by or through a registered dealer under this chapter to
957 a purchaser who, at the time of taking delivery, is a
958 nonresident of this state, does not make his or her permanent
959 place of abode in this state, and is not engaged in carrying on
960 in this state any employment, trade, business, or profession in
961 which the boat or aircraft will be used in this state, or is a
962 corporation none of the officers or directors of which is a
963 resident of, or makes his or her permanent place of abode in,
964 this state, or is a noncorporate entity that has no individual
965 vested with authority to participate in the management,
966 direction, or control of the entity's affairs who is a resident
967 of, or makes his or her permanent abode in, this state. For
968 purposes of this exemption, either a registered dealer acting on
969 his or her own behalf as seller, a registered dealer acting as
970 broker on behalf of a seller, or a registered dealer acting as
971 broker on behalf of the purchaser may be deemed to be the
972 selling dealer. This exemption shall not be allowed unless:

973 a. The purchaser removes a qualifying boat, as described
974 in sub-subparagraph f., from the state within 90 days after the
975 date of purchase or extension, or the purchaser removes a
976 nonqualifying boat or an aircraft from this state within 10 days
977 after the date of purchase or, when the boat or aircraft is
978 repaired or altered, within 20 days after completion of the
979 repairs or alterations;

980 b. The purchaser, within 30 days from the date of

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981 departure, shall provide the department with written proof that
982 the purchaser licensed, registered, titled, or documented the
983 boat or aircraft outside the state. If such written proof is
984 unavailable, within 30 days the purchaser shall provide proof
985 that the purchaser applied for such license, title,
986 registration, or documentation. The purchaser shall forward to
987 the department proof of title, license, registration, or
988 documentation upon receipt;

989 c. The purchaser, within 10 days of removing the boat or
990 aircraft from Florida, shall furnish the department with proof
991 of removal in the form of receipts for fuel, dockage, slippage,
992 tie-down, or hangaring from outside of Florida. The information
993 so provided must clearly and specifically identify the boat or
994 aircraft;

995 d. The selling dealer, within 5 days of the date of sale,
996 shall provide to the department a copy of the sales invoice,
997 closing statement, bills of sale, and the original affidavit
998 signed by the purchaser attesting that he or she has read the
999 provisions of this section;

1000 e. The seller makes a copy of the affidavit a part of his
1001 or her record for as long as required by s. 213.35; and

1002 f. Unless the nonresident purchaser of a boat of 5 net
1003 tons of admeasurement or larger intends to remove the boat from
1004 this state within 10 days after the date of purchase or when the
1005 boat is repaired or altered, within 20 days after completion of
1006 the repairs or alterations, the nonresident purchaser shall
1007 apply to the selling dealer for a decal which authorizes 90 days
1008 after the date of purchase for removal of the boat. The

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1009 nonresident purchaser of a qualifying boat may apply to the
1010 selling dealer within 60 days after the date of purchase for an
1011 extension decal that authorizes the boat to remain in this state
1012 for an additional 90 days, but not more than a total of 180
1013 days, before the nonresident purchaser is required to pay the
1014 tax imposed by this chapter. The department is authorized to
1015 issue decals in advance to dealers. The number of decals issued
1016 in advance to a dealer shall be consistent with the volume of
1017 the dealer's past sales of boats which qualify under this sub-
1018 subparagraph. The selling dealer or his or her agent shall mark
1019 and affix the decals to qualifying boats in the manner
1020 prescribed by the department, prior to delivery of the boat.

1021 (I) The department is hereby authorized to charge dealers
1022 a fee sufficient to recover the costs of decals issued, except
1023 the extension decal shall cost \$425.

1024 (II) The proceeds from the sale of decals will be
1025 deposited into the administrative trust fund.

1026 (III) Decals shall display information to identify the
1027 boat as a qualifying boat under this sub-subparagraph,
1028 including, but not limited to, the decal's date of expiration.

1029 (IV) The department is authorized to require dealers who
1030 purchase decals to file reports with the department and may
1031 prescribe all necessary records by rule. All such records are
1032 subject to inspection by the department.

1033 (V) Any dealer or his or her agent who issues a decal
1034 falsely, fails to affix a decal, mismarks the expiration date of
1035 a decal, or fails to properly account for decals will be
1036 considered prima facie to have committed a fraudulent act to

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1037 evade the tax and will be liable for payment of the tax plus a
1038 mandatory penalty of 200 percent of the tax, and shall be liable
1039 for fine and punishment as provided by law for a conviction of a
1040 misdemeanor of the first degree, as provided in s. 775.082 or s.
1041 775.083.

1042 (VI) Any nonresident purchaser of a boat who removes a
1043 decal prior to permanently removing the boat from the state, or
1044 defaces, changes, modifies, or alters a decal in a manner
1045 affecting its expiration date prior to its expiration, or who
1046 causes or allows the same to be done by another, will be
1047 considered prima facie to have committed a fraudulent act to
1048 evade the tax and will be liable for payment of the tax plus a
1049 mandatory penalty of 200 percent of the tax, and shall be liable
1050 for fine and punishment as provided by law for a conviction of a
1051 misdemeanor of the first degree, as provided in s. 775.082 or s.
1052 775.083.

1053 (VII) The department is authorized to adopt rules
1054 necessary to administer and enforce this subparagraph and to
1055 publish the necessary forms and instructions.

1056 (VIII) The department is hereby authorized to adopt
1057 emergency rules pursuant to s. 120.54(4) to administer and
1058 enforce the provisions of this subparagraph.

1059
1060 If the purchaser fails to remove the qualifying boat from this
1061 state within the maximum 180 days after purchase or a
1062 nonqualifying boat or an aircraft from this state within 10 days
1063 after purchase or, when the boat or aircraft is repaired or
1064 altered, within 20 days after completion of such repairs or

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alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7) (ggg), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

(b) At the rate of 6 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; however, for tangible property originally purchased exempt from tax for use exclusively for lease and which is converted to the owner's own use, tax may be paid on the fair market value of the property at the time of conversion. If the fair market value of the property cannot be determined, use tax at the time of conversion shall be based on the owner's acquisition cost. Under no circumstances may the aggregate amount of sales tax from leasing the property and use tax due at the time of conversion be less than the total sales tax that would have been due on the original acquisition cost paid by the owner.

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as

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defined herein; ~~however, the following special provisions apply to the lease or rental of motor vehicles:~~

~~1. When a motor vehicle is leased or rented for a period of less than 12 months:~~

~~a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.~~

~~b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.~~

~~2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.~~

~~3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(66)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.~~

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(d) At the rate of 6 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 6 percent on charges for:

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

(I) "Prepaid calling arrangement" means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.

(II) The sale or recharge of the prepaid calling arrangement is deemed to take place in accordance with s.

~~212.06(17) (d) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.~~

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, whether or not a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to

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the jurisdiction of this state for purposes of this subsection.

b. The installation of telecommunication and telegraphic equipment.

c. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

2. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

(f) At the rate of 6 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment, and parts and accessories therefor, used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g)1. At the rate of 6 percent on the retail price of newspapers and magazines sold or used in Florida.

2. Notwithstanding other provisions of this chapter, inserts of printed materials which are distributed with a

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newspaper or magazine are a component part of the newspaper or magazine, and neither the sale nor use of such inserts is subject to tax when:

a. Printed by a newspaper or magazine publisher or commercial printer and distributed as a component part of a newspaper or magazine, which means that the items after being printed are delivered directly to a newspaper or magazine publisher by the printer for inclusion in editions of the distributed newspaper or magazine;

b. Such publications are labeled as part of the designated newspaper or magazine publication into which they are to be inserted; and

c. The purchaser of the insert presents a resale certificate to the vendor stating that the inserts are to be distributed as a component part of a newspaper or magazine.

(h)1. A tax is imposed at the rate of 4 percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For counties that do not impose a discretionary sales surtax, the divisor is equal to 1.04; for counties that impose a 0.5 percent discretionary sales surtax, the divisor is equal to 1.045; for counties that impose a 1 percent discretionary sales surtax, the divisor is equal to 1.050; and for counties that impose a 2 percent sales surtax, the divisor is equal to 1.060. If a county

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1205 imposes a discretionary sales surtax that is not listed in this
1206 subparagraph, the department shall make the applicable divisor
1207 available in an electronic format or otherwise. Additional
1208 divisors shall bear the same mathematical relationship to the
1209 next higher and next lower divisors as the new surtax rate bears
1210 to the next higher and next lower surtax rates for which
1211 divisors have been established. When a machine is activated by a
1212 slug, token, coupon, or any similar device which has been
1213 purchased, the tax is on the price paid by the user of the
1214 device for such device.

1215 2. As used in this paragraph, the term "operator" means
1216 any person who possesses a coin-operated amusement machine for
1217 the purpose of generating sales through that machine and who is
1218 responsible for removing the receipts from the machine.

1219 a. If the owner of the machine is also the operator of it,
1220 he or she shall be liable for payment of the tax without any
1221 deduction for rent or a license fee paid to a location owner for
1222 the use of any real property on which the machine is located.

1223 b. If the owner or lessee of the machine is also its
1224 operator, he or she shall be liable for payment of the tax on
1225 the purchase or lease of the machine, as well as the tax on
1226 sales generated through the machine.

1227 c. If the proprietor of the business where the machine is
1228 located does not own the machine, he or she shall be deemed to
1229 be the lessee and operator of the machine and is responsible for
1230 the payment of the tax on sales, unless such responsibility is
1231 otherwise provided for in a written agreement between him or her
1232 and the machine owner.

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1233 3.a. An operator of a coin-operated amusement machine may
1234 not operate or cause to be operated in this state any such
1235 machine until the operator has registered with the department
1236 and has conspicuously displayed an identifying certificate
1237 issued by the department. The identifying certificate shall be
1238 issued by the department upon application from the operator. The
1239 identifying certificate shall include a unique number, and the
1240 certificate shall be permanently marked with the operator's
1241 name, the operator's sales tax number, and the maximum number of
1242 machines to be operated under the certificate. An identifying
1243 certificate shall not be transferred from one operator to
1244 another. The identifying certificate must be conspicuously
1245 displayed on the premises where the coin-operated amusement
1246 machines are being operated.

1247 b. The operator of the machine must obtain an identifying
1248 certificate before the machine is first operated in the state
1249 and by July 1 of each year thereafter. The annual fee for each
1250 certificate shall be based on the number of machines identified
1251 on the application times \$30 and is due and payable upon
1252 application for the identifying device. The application shall
1253 contain the operator's name, sales tax number, business address
1254 where the machines are being operated, and the number of
1255 machines in operation at that place of business by the operator.
1256 No operator may operate more machines than are listed on the
1257 certificate. A new certificate is required if more machines are
1258 being operated at that location than are listed on the
1259 certificate. The fee for the new certificate shall be based on
1260 the number of additional machines identified on the application

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form times \$30.

c. A penalty of \$250 per machine is imposed on the operator for failing to properly obtain and display the required identifying certificate. A penalty of \$250 is imposed on the lessee of any machine placed in a place of business without a proper current identifying certificate. Such penalties shall apply in addition to all other applicable taxes, interest, and penalties.

d. Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator's machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this chapter, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

(i)1. At the rate of 6 percent on charges for all:

a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621). Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law

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1289 enforcement officer, and who is subject to the direct and
1290 immediate command of his or her law enforcement agency, and in
1291 the law enforcement officer's uniform as authorized by his or
1292 her law enforcement agency, is performing law enforcement and
1293 public safety services and is not performing detective, burglar
1294 protection, or other protective services, if the law enforcement
1295 officer is performing his or her approved duties in a
1296 geographical area in which the law enforcement officer has
1297 arrest jurisdiction. Such law enforcement and public safety
1298 services are not subject to tax irrespective of whether the duty
1299 is characterized as "extra duty," "off-duty," or "secondary
1300 employment," and irrespective of whether the officer is paid
1301 directly or through the officer's agency by an outside source.
1302 The term "law enforcement officer" includes full-time or part-
1303 time law enforcement officers, and any auxiliary law enforcement
1304 officer, when such auxiliary law enforcement officer is working
1305 under the direct supervision of a full-time or part-time law
1306 enforcement officer.

1307 b. Nonresidential cleaning, excluding cleaning of the
1308 interiors of transportation equipment, and nonresidential
1309 building pest control services (NAICS National Numbers 561710
1310 and 561720).

1311 2. As used in this paragraph, "NAICS" means those
1312 classifications contained in the North American Industry
1313 Classification System, as published in 2007 by the Office of
1314 Management and Budget, Executive Office of the President.

1315 3. Charges for detective, burglar protection, and other
1316 protection security services performed in this state but used

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1317 outside this state are exempt from taxation. Charges for
1318 detective, burglar protection, and other protection security
1319 services performed outside this state and used in this state are
1320 subject to tax.

1321 4. If a transaction involves both the sale or use of a
1322 service taxable under this paragraph and the sale or use of a
1323 service or any other item not taxable under this chapter, the
1324 consideration paid must be separately identified and stated with
1325 respect to the taxable and exempt portions of the transaction or
1326 the entire transaction shall be presumed taxable. The burden
1327 shall be on the seller of the service or the purchaser of the
1328 service, whichever applicable, to overcome this presumption by
1329 providing documentary evidence as to which portion of the
1330 transaction is exempt from tax. The department is authorized to
1331 adjust the amount of consideration identified as the taxable and
1332 exempt portions of the transaction; however, a determination
1333 that the taxable and exempt portions are inaccurately stated and
1334 that the adjustment is applicable must be supported by
1335 substantial competent evidence.

1336 5. Each seller of services subject to sales tax pursuant
1337 to this paragraph shall maintain a monthly log showing each
1338 transaction for which sales tax was not collected because the
1339 services meet the requirements of subparagraph 3. for out-of-
1340 state use. The log must identify the purchaser's name, location
1341 and mailing address, and federal employer identification number,
1342 if a business, or the social security number, if an individual,
1343 the service sold, the price of the service, the date of sale,
1344 the reason for the exemption, and the sales invoice number. The

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monthly log shall be maintained pursuant to the same requirements and subject to the same penalties imposed for the keeping of similar records pursuant to this chapter.

(j)1. Notwithstanding any other provision of this chapter, there is hereby levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded, such tax shall not be levied.

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency exceeds \$500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed under this

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paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.

(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel.

(l) Florists located in this state are liable for sales tax on sales to retail customers regardless of where or by whom the items sold are to be delivered. Florists located in this state are not liable for sales tax on payments received from other florists for items delivered to customers in this state.

(m) Operators of game concessions or other concessionaires who customarily award tangible personal property as prizes may, in lieu of paying tax on the cost price of such property, pay tax on 25 percent of the gross receipts from such concession activity.

(2) The tax shall be collected by the dealer, as defined herein, and remitted by the dealer to the state at the time and in the manner as hereinafter provided.

(3) The tax so levied is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and in addition to all other fees and taxes levied.

~~(4) The tax imposed pursuant to this chapter shall be due and payable according to the brackets set forth in s. 212.12.~~

(4) ~~(5)~~ Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may

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not exceed \$18,000.

Section 7. Section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(1) A ~~No~~ general excise tax on sales may not ~~shall~~ be levied by the governing body of any county unless specifically authorized in s. 212.055. Any general excise tax on sales authorized pursuant to said section shall be administered and collected exclusively as provided in this section.

(2) (a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter and communications services as defined for purposes of chapter 202. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales

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1429 surtax.

1430 (b) However:

1431 1. The sales amount above \$5,000 on a motor vehicle,
1432 aircraft, boat, manufactured home, modular home, or mobile home
1433 is any item of tangible personal property shall not be subject
1434 to the surtax. ~~However, charges for prepaid calling~~
1435 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~
1436 ~~subject to the surtax. For purposes of administering the \$5,000~~
1437 ~~limitation on an item of tangible personal property, if two or~~
1438 ~~more taxable items of tangible personal property are sold to the~~
1439 ~~same purchaser at the same time and, under generally accepted~~
1440 ~~business practice or industry standards or usage, are normally~~
1441 ~~sold in bulk or are items that, when assembled, comprise a~~
1442 ~~working unit or part of a working unit, such items must be~~
1443 ~~considered a single item for purposes of the \$5,000 limitation~~
1444 ~~when supported by a charge ticket, sales slip, invoice, or other~~
1445 ~~tangible evidence of a single sale or rental.~~

1446 2. In the case of utility services covering a period
1447 starting before and ending after the effective date of the
1448 surtax, the rate applies as follows:

1449 a. In the case of a rate adoption or increase, the new
1450 rate applies to the first billing period starting on or after
1451 the effective date of the surtax adoption or increase.

1452 b. In the case of a rate decrease or termination, the new
1453 rate applies to bills rendered on or after the effective date of
1454 the rate change ~~billed on or after the effective date of any~~
1455 ~~such surtax, the entire amount of the charge for utility~~
1456 ~~services shall be subject to the surtax. In the case of utility~~

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1457 ~~services billed after the last day the surtax is in effect, the~~
1458 ~~entire amount of the charge on said items shall not be subject~~
1459 ~~to the surtax.~~ "Utility service," as used in this section, does
1460 not include any communications services as defined in chapter
1461 202.

1462 3. In the case of written contracts which are signed prior
1463 to the effective date of any such surtax for the construction of
1464 improvements to real property or for remodeling of existing
1465 structures, the surtax shall be paid by the contractor
1466 responsible for the performance of the contract. However, the
1467 contractor may apply for one refund of any such surtax paid on
1468 materials necessary for the completion of the contract. Any
1469 application for refund shall be made no later than 15 months
1470 following initial imposition of the surtax in that county. The
1471 application for refund shall be in the manner prescribed by the
1472 department by rule. A complete application shall include proof
1473 of the written contract and of payment of the surtax. The
1474 application shall contain a sworn statement, signed by the
1475 applicant or its representative, attesting to the validity of
1476 the application. The department shall, within 30 days after
1477 approval of a complete application, certify to the county
1478 information necessary for issuance of a refund to the applicant.
1479 Counties are hereby authorized to issue refunds for this purpose
1480 and shall set aside from the proceeds of the surtax a sum
1481 sufficient to pay any refund lawfully due. Any person who
1482 fraudulently obtains or attempts to obtain a refund pursuant to
1483 this subparagraph, in addition to being liable for repayment of
1484 any refund fraudulently obtained plus a mandatory penalty of 100

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percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. In the case of any vessel, railroad, or motor vehicle common carrier entitled to partial exemption from tax imposed under this chapter pursuant to s. 212.08(4), (8), or (9), the basis for imposition of surtax shall be the same as provided in s. 212.08 and the ratio shall be applied each month to total purchases in this state of property qualified for proration which is delivered or sold in the taxing county to establish the portion used and consumed in intracounty movement and subject to surtax.

(3) Except as otherwise provided in this section, a surtax applies to a retail sale, lease, or rental of tangible personal property, a digital good, or a service when, under s. 212.06(17), the transaction occurs in a county that imposes a surtax under s. 212.055.

(4)-(3) To determine whether a transaction occurs in a county imposing a surtax, the following provisions apply ~~For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:~~

(a)1- The retail sale of a modular or manufactured home, not including a mobile home, occurs in the county to which the house is delivered ~~includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county. If there is no~~

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1513 ~~reasonable evidence of delivery of a service, the sale of a~~
1514 ~~service is deemed to occur in the county in which the purchaser~~
1515 ~~accepts the bill of sale.~~

1516 (b)2. The retail sale, excluding a lease or rental, of any
1517 motor vehicle that does not qualify as transportation equipment,
1518 as defined in s. 212.06(17)(g), or the retail sale of a ~~of any~~
1519 ~~motor vehicle or mobile home of a class or type that which is~~
1520 ~~required to be registered in this state or in any other state is~~
1521 ~~shall be deemed to occur have occurred only~~ in the county
1522 identified from ~~as~~ the ~~residence~~ address of the purchaser on the
1523 registration or title document for the ~~such~~ property.

1524 (c)(b) Admission charged for an event occurs ~~The event for~~
1525 ~~which an admission is charged is located~~ in the county in which
1526 the event is held.

1527 (d)(e) A lease or rental of real property occurs in the
1528 county in which the real property is located. ~~The consumer of~~
1529 ~~utility services is located in the county.~~

1530 (e)(d)1. The retail sale, excluding a lease or rental, of
1531 any aircraft that does not qualify as transportation equipment,
1532 as defined in s. 212.06(17)(g), or of any boat of a class or
1533 type that is required to be registered, licensed, titled, or
1534 documented in this state or by the United States Government
1535 occurs in the county to which the aircraft or boat is delivered.

1536 2. The user of any aircraft or boat of a class or type
1537 that which is required to be registered, licensed, titled, or
1538 documented in this state or by the United States Government
1539 imported into the county for use, consumption, distribution, or
1540 storage to be used or consumed occurs in the county in which the

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1541 user is located ~~in the county~~.

1542 ~~3.2.~~ However, it shall be presumed that such items used
1543 outside the county imposing the surtax for 6 months or longer
1544 before being imported into the county were not purchased for use
1545 in the county, except as provided in s. 212.06(8)(b).

1546 ~~4.3.~~ This paragraph does not apply to the use or
1547 consumption of items upon which a like tax of equal or greater
1548 amount has been lawfully imposed and paid outside the county.

1549 ~~(f)(e)~~ The purchase ~~purchaser~~ of any motor vehicle or
1550 mobile home of a class or type that ~~which~~ is required to be
1551 registered in this state occurs in the county identified from
1552 the residential address of the purchaser ~~is a resident of the~~
1553 ~~taxing county as determined by the address appearing on or to be~~
1554 ~~reflected~~ on the registration document for the ~~such~~ property.

1555 ~~(g)(f)~~1. The use, consumption, distribution, or storage of
1556 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~
1557 is required to be registered in this state and that is imported
1558 from another state occurs in the county to which it is imported
1559 ~~into the taxing county by a user residing therein for the~~
1560 ~~purpose of use, consumption, distribution, or storage in the~~
1561 ~~taxing county.~~

1562 2. However, it shall be presumed that such items used
1563 outside the taxing county for 6 months or longer before being
1564 imported into the county were not purchased for use in the
1565 county.

1566 ~~(g)~~ ~~The real property which is leased or rented is located~~
1567 ~~in the county.~~

1568 (h) A ~~The~~ transient rental transaction occurs in the

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1569 county in which the rental property is located.

1570 ~~(i) The delivery of any aircraft or boat of a class or~~
1571 ~~type which is required to be registered, licensed, titled, or~~
1572 ~~documented in this state or by the United States Government is~~
1573 ~~to a location in the county. However, this paragraph does not~~
1574 ~~apply to the use or consumption of items upon which a like tax~~
1575 ~~of equal or greater amount has been lawfully imposed and paid~~
1576 ~~outside the county.~~

1577 ~~(i)-(j)~~ A transaction occurs in a county imposing the
1578 surtax if the dealer owing a use tax on purchases or leases is
1579 located in that the county.

1580 ~~(k) The delivery of tangible personal property other than~~
1581 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~
1582 ~~is made to a location outside the county, but the property is~~
1583 ~~brought into the county within 6 months after delivery, in which~~
1584 ~~event, the owner must pay the surtax as a use tax.~~

1585 ~~(j)-(l)~~ The use of a coin-operated amusement or vending
1586 machine occurs is located in the county in which the machine is
1587 located.

1588 ~~(k)-(m)~~ An The florist taking the original order to sell
1589 tangible personal property taken by a florist occurs is located
1590 in the county in which the florist taking the order is located,
1591 notwithstanding any other provision of this section.

1592 ~~(5)-(4)~~ (a) The department shall administer, collect, and
1593 enforce the tax authorized under s. 212.055 pursuant to the same
1594 procedures used in the administration, collection, and
1595 enforcement of the general state sales tax imposed under the
1596 provisions of this chapter, except as provided in this section.

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1597 The provisions of this chapter regarding interest and penalties
1598 on delinquent taxes shall apply to the surtax. Discretionary
1599 sales surtaxes shall not be included in the computation of
1600 estimated taxes pursuant to s. 212.11. Notwithstanding any other
1601 provision of law, a dealer need not separately state the amount
1602 of the surtax on the charge ticket, sales slip, invoice, or
1603 other tangible evidence of sale. For the purposes of this
1604 section and s. 212.055, the "proceeds" of any surtax means all
1605 funds collected and received by the department pursuant to a
1606 specific authorization and levy under s. 212.055, including any
1607 interest and penalties on delinquent surtaxes.

1608 (b) The proceeds of a discretionary sales surtax collected
1609 by the selling dealer located in a county imposing the surtax
1610 shall be returned, less the cost of administration, to the
1611 county where the selling dealer is located. The proceeds shall
1612 be transferred to the Discretionary Sales Surtax Clearing Trust
1613 Fund. A separate account shall be established in the trust fund
1614 for each county imposing a discretionary surtax. The amount
1615 deducted for the costs of administration may not exceed 3
1616 percent of the total revenue generated for all counties levying
1617 a surtax authorized in s. 212.055. The amount deducted for the
1618 costs of administration may be used only for costs that are
1619 solely and directly attributable to the surtax. The total cost
1620 of administration shall be prorated among those counties levying
1621 the surtax on the basis of the amount collected for a particular
1622 county to the total amount collected for all counties. The
1623 department shall distribute the moneys in the trust fund to the
1624 appropriate counties each month, unless otherwise provided in s.

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212.055.

(c)1. Any dealer located in a county that does not impose a discretionary sales surtax but who collects the surtax due to sales of tangible personal property or services delivered outside the county shall remit monthly the proceeds of the surtax to the department to be deposited into an account in the Discretionary Sales Surtax Clearing Trust Fund which is separate from the county surtax collection accounts. The department shall distribute funds in this account using a distribution factor determined for each county that levies a surtax and multiplied by the amount of funds in the account and available for distribution. The distribution factor for each county equals the product of:

a. The county's latest official population determined pursuant to s. 186.901;

b. The county's rate of surtax; and

c. The number of months the county has levied a surtax during the most recent distribution period;

divided by the sum of all such products of the counties levying the surtax during the most recent distribution period.

2. The department shall compute distribution factors for eligible counties once each quarter and make appropriate quarterly distributions.

3. A county that fails to timely provide the information required by this section to the department authorizes the department, by such action, to use the best information available to it in distributing surtax revenues to the county.

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If this information is unavailable to the department, the department may partially or entirely disqualify the county from receiving surtax revenues under this paragraph. A county that fails to provide timely information waives its right to challenge the department's determination of the county's share, if any, of revenues provided under this paragraph.

~~(5) No discretionary sales surtax or increase or decrease in the rate of any discretionary sales surtax shall take effect on a date other than January 1. No discretionary sales surtax shall terminate on a day other than December 31.~~

(6) The governing body of any county levying a discretionary sales surtax shall enact an ordinance levying the surtax in accordance with the procedures described in s. 125.66(2).

(7)(a) Any adoption, repeal, or rate change of the surtax by the governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(6) is effective on April 1. A county or school board adopting, repealing, or changing the rate of such surtax shall notify the department within 10 days after final adoption by ordinance or referendum of an adoption, repeal, imposition, termination, or rate change of the surtax, but no later than October 20 immediately preceding such April 1 ~~November 16 prior to the effective date~~. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such

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notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(6) shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(c) The department shall provide notice of the adoption, repeal, or rate change of the surtax to affected sellers by February 1 immediately preceding the April 1 effective date.

(d) Notwithstanding the date set in an ordinance for the termination of a surtax, a surtax terminates only on March 31. A surtax imposed before January 1, 2012, for which an ordinance provides a different termination date, also terminates on the March 31 following the termination date established in the ordinance.

(8) With respect to any motor vehicle or mobile home of a class or type which is required to be registered in this state, the tax due on a transaction occurring in the taxing county as herein provided shall be collected from the purchaser or user incident to the titling and registration of such property, irrespective of whether such titling or registration occurs in

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the taxing county.

(9) The department may certify vendor databases, and shall purchase or otherwise make available a database or databases, singly or in combination, which describe boundary changes for all taxing jurisdictions, including a description of the change and the effective date of a boundary change; provide all sales and use tax rates by jurisdiction; assign to each five-digit and nine-digit zip code the proper rate and jurisdiction and apply the lowest combined rate imposed in the zip code area, if the area includes more than one tax rate in any level of taxing jurisdiction; and use address-based boundary database records for assigning taxing jurisdictions and associated tax rates.

(a) A seller or certified service provider that collects and remits the state tax and any local tax imposed by this chapter shall be held harmless from any tax, interest, and penalties due solely as a result of relying on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the state if the seller or certified service provider exercises due diligence in applying one or more of the following methods to determine the taxing jurisdiction and tax rate for a transaction:

1. Employing an electronic database provided by the department under this subsection; or

2. Employing a state-certified database.

(b) If a seller or certified service provider is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the seller or certified service provider may apply the nine-digit zip code

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1737 designation applicable to a purchaser.

1738 (c) If a nine-digit zip code designation is not available
1739 for a street address or if a seller or certified service
1740 provider is unable to determine the nine-digit zip code
1741 designation applicable to a purchase after exercising due
1742 diligence to determine the designation, the seller or certified
1743 service provider may apply the rate for the five-digit zip code
1744 area.

1745 (d) There is a rebuttable presumption that a seller or
1746 certified service provider has exercised due diligence if the
1747 seller or certified service provider has attempted to determine
1748 the tax rate and jurisdiction by using state-certified software
1749 that makes this assignment from the address and zip code
1750 information applicable to the purchase.

1751 (e) There is a rebuttable presumption that a seller or
1752 certified service provider has exercised due diligence if the
1753 seller or certified service provider has attempted to determine
1754 the nine-digit zip code designation by using state-certified
1755 software that makes this designation from the street address and
1756 the five-digit zip code applicable to a purchase.

1757 (f) If a seller or certified service provider does not use
1758 one of the methods specified in paragraph (a), the seller or
1759 certified service provider may be held liable to the department
1760 for tax, interest, and penalties that are due for charging and
1761 collecting the incorrect amount of tax.

1762 (10) A purchaser shall be held harmless from tax,
1763 interest, and penalties for having failed to pay the correct
1764 amount of sales or use tax due solely as a result of any of the

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following circumstances:

(a) The seller or certified service provider relied on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the department;

(b) A purchaser holding a direct-pay permit relied on erroneous data on tax rates, boundaries, or taxing jurisdiction assignments provided by the department; or

(c) A purchaser relied on erroneous data supplied in a database described in paragraph (9) (a).

(11) A seller is not liable for failing to collect tax at the new tax rate if:

(a) The new rate takes effect within 30 days after the new rate is enacted;

(b) The seller collected the tax at the preceding rate;

(c) The seller's failure to collect the tax at the new rate does not extend beyond 30 days after the enactment of the new rate; and

(d) The seller did not fraudulently fail to collect at the new rate or solicit purchasers based on the preceding rate.

Section 8. Paragraph (c) of subsection (2) and subsections (3) and (5) of section 212.06, Florida Statutes, are amended, and subsection (17) is added to that section, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(2)

(c) The term "dealer" is further defined to mean every person, as used in this chapter, who sells at retail or who

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1793 offers for sale at retail, or who has in his or her possession
1794 for sale at retail; or for use, consumption, or distribution; or
1795 for storage to be used or consumed in this state, tangible
1796 personal property as defined herein, ~~including a retailer who~~
1797 ~~transacts a mail order sale.~~

1798 (3) (a) Except as provided in paragraph (b), every dealer
1799 making sales, whether within or outside the state, of tangible
1800 personal property for distribution, storage, or use or other
1801 consumption, in this state, shall, at the time of making sales,
1802 collect the tax imposed by this chapter from the purchaser.

1803 (b)1. Notwithstanding subsection (17), a purchaser of
1804 direct mail which is not a holder of a direct-pay permit shall
1805 provide to the seller in conjunction with the purchase a direct-
1806 mail form or information to show the jurisdictions to which the
1807 direct mail is delivered to recipients.

1808 2. Upon receipt of information from the purchaser showing
1809 the jurisdictions to which the direct mail is delivered to
1810 recipients, the seller shall collect the tax according to the
1811 delivery information provided by the purchaser. In the absence
1812 of bad faith, the seller is relieved of any further obligation
1813 to collect tax on any transaction for which the seller has
1814 collected tax pursuant to the delivery information provided by
1815 the purchaser.

1816 3. If the purchaser of direct mail does not have a direct-
1817 pay permit and does not provide the seller with a direct-mail
1818 form or delivery information as required by subparagraph 1., the
1819 seller shall collect the tax according to subparagraph (17) (d) 5.
1820 This paragraph does not limit a purchaser's obligation to remit

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1821 sales or use tax to any state to which the direct mail is
1822 delivered.

1823 4. If a purchaser of direct mail provides the seller with
1824 documentation of direct-pay authority, the purchaser is not
1825 required to provide a direct-mail form or delivery information
1826 to the seller. A purchaser of printed materials shall have sole
1827 responsibility for the taxes imposed by this chapter on those
1828 materials when the printer of the materials delivers them to the
1829 United States Postal Service for mailing to persons other than
1830 the purchaser located within and outside this state. Printers of
1831 materials delivered by mail to persons other than the purchaser
1832 located within and outside this state shall have no obligation
1833 or responsibility for the payment or collection of any taxes
1834 imposed under this chapter on those materials. However, printers
1835 are obligated to collect the taxes imposed by this chapter on
1836 printed materials when all, or substantially all, of the
1837 materials will be mailed to persons located within this state.
1838 For purposes of the printer's tax collection obligation, there
1839 is a rebuttable presumption that all materials printed at a
1840 facility are mailed to persons located within the same state as
1841 that in which the facility is located. A certificate provided by
1842 the purchaser to the printer concerning the delivery of the
1843 printed materials for that purchase or all purchases shall be
1844 sufficient for purposes of rebutting the presumption created
1845 herein.

1846 5.2. The Department of Revenue is authorized to adopt
1847 rules and forms to implement the provisions of this paragraph.

1848 (5) (a) 1. ~~Except as provided in subparagraph 2., It is not~~

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1849 ~~the intention of~~ This chapter does not ~~to~~ levy a tax upon
1850 tangible personal property imported, produced, or manufactured
1851 in this state for export:

1852 1. If, ~~provided that tangible personal property may not be~~
1853 ~~considered as being imported, produced, or manufactured for~~
1854 ~~export unless~~ the importer, producer, or manufacturer:

1855 a. Delivers the tangible personal property ~~same~~ to a
1856 licensed exporter for exporting or to a common carrier for
1857 shipment outside the state or mails the same by United States
1858 mail to a destination outside the state; ~~or, in the case of~~
1859 ~~aircraft being exported under their own power to a destination~~
1860 ~~outside the continental limits of the United States, by~~
1861 ~~submission~~

1862 b. Submits to the department ~~of~~ a duly signed and
1863 validated United States customs declaration, ~~showing the~~
1864 departure of an ~~the~~ aircraft from the continental United States
1865 ~~and; and further with respect to aircraft,~~ the canceled United
1866 States registry of the said aircraft for an aircraft that is
1867 exported under its own power to a destination outside of the
1868 continental United States; or in the case of

1869 c. Submits documentation as required by rule to the
1870 department showing the departure of an aircraft of foreign
1871 registry from the continental United States on which parts and
1872 equipment have been ~~installed on aircraft of foreign registry,~~
1873 ~~by submission to the department of documentation, the extent of~~
1874 ~~which shall be provided by rule, showing the departure of the~~
1875 ~~aircraft from the continental United States; or nor is it the~~
1876 ~~intention of this chapter to levy a tax on any sale which~~

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1877 2. If the state is prohibited from taxing the sale under
1878 the Constitution or laws of the United States.

1879
1880 Every retail sale made to a person physically present at the
1881 time of sale shall be presumed to have been delivered in this
1882 state.

1883 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~
1884 ~~each sale of tangible personal property to be transported to a~~
1885 ~~cooperating state as defined in sub-subparagraph c., at the rate~~
1886 ~~specified in sub-subparagraph d. However, a Florida dealer will~~
1887 ~~be relieved from the requirements of collecting taxes pursuant~~
1888 ~~to this subparagraph if the Florida dealer obtains from the~~
1889 ~~purchaser an affidavit setting forth the purchaser's name,~~
1890 ~~address, state taxpayer identification number, and a statement~~
1891 ~~that the purchaser is aware of his or her state's use tax laws,~~
1892 ~~is a registered dealer in Florida or another state, or is~~
1893 ~~purchasing the tangible personal property for resale or is~~
1894 ~~otherwise not required to pay the tax on the transaction. The~~
1895 ~~department may, by rule, provide a form to be used for the~~
1896 ~~purposes set forth herein.~~

1897 ~~b. For purposes of this subparagraph, "a cooperating~~
1898 ~~state" is one determined by the executive director of the~~
1899 ~~department to cooperate satisfactorily with this state in~~
1900 ~~collecting taxes on mail order sales. No state shall be so~~
1901 ~~determined unless it meets all the following minimum~~
1902 ~~requirements:~~

1903 ~~(I) It levies and collects taxes on mail order sales of~~
1904 ~~property transported from that state to persons in this state,~~

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as described in s. 212.0596, upon request of the department.

(II) The tax so collected shall be at the rate specified in s. 212.05, not including any local option or tourist or convention development taxes collected pursuant to s. 125.0104 or this chapter.

(III) Such state agrees to remit to the department all taxes so collected no later than 30 days from the last day of the calendar quarter following their collection.

(IV) Such state authorizes the department to audit dealers within its jurisdiction who make mail order sales that are the subject of s. 212.0596, or makes arrangements deemed adequate by the department for auditing them with its own personnel.

(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

e. For purposes of this subparagraph, "sales of tangible personal property to be transported to a cooperating state" means mail order sales to a person who is in the cooperating state at the time the order is executed, from a dealer who receives that order in this state.

d. The tax levied by sub-subparagraph a. shall be at the rate at which such a sale would have been taxed pursuant to the cooperating state's tax laws if consummated in the cooperating state by a dealer and a purchaser, both of whom were physically present in that state at the time of the sale.

e. The tax levied by sub-subparagraph a., when collected,

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shall be held in the State Treasury in trust for the benefit of the cooperating state and shall be paid to it at a time agreed upon between the department, acting for this state, and the cooperating state or the department or agency designated by it to act for it; however, such payment shall in no event be made later than 30 days from the last day of the calendar quarter after the tax was collected. Funds held in trust for the benefit of a cooperating state shall not be subject to the service charges imposed by s. 215.20.

f. The department is authorized to perform such acts and to provide such cooperation to a cooperating state with reference to the tax levied by sub-subparagraph a. as is required of the cooperating state by sub-subparagraph b.

g. In furtherance of this act, dealers selling tangible personal property for delivery in another state shall make available to the department, upon request of the department, records of all tangible personal property so sold. Such records shall include a description of the property, the name and address of the purchaser, the name and address of the person to whom the property was sent, the purchase price of the property, information regarding whether sales tax was paid in this state on the purchase price, and such other information as the department may by rule prescribe.

(b)1. Notwithstanding the provisions of paragraph (a), it is not the intention of this chapter to levy a tax on the sale of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration, provided such nonresident dealer furnishes the seller a statement declaring

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1961 that the tangible personal property will be transported outside
1962 this state by the nonresident dealer for resale and for no other
1963 purpose. The statement shall include, but not be limited to, the
1964 nonresident dealer's name, address, applicable passport or visa
1965 number, arrival-departure card number, and evidence of authority
1966 to do business in the nonresident dealer's home state or
1967 country, such as his or her business name and address,
1968 occupational license number, if applicable, or any other
1969 suitable requirement. The statement shall be signed by the
1970 nonresident dealer and shall include the following sentence:
1971 "Under penalties of perjury, I declare that I have read the
1972 foregoing, and the facts alleged are true to the best of my
1973 knowledge and belief."

1974 2. The burden of proof of subparagraph 1. rests with the
1975 seller, who must retain the proper documentation to support the
1976 exempt sale. The exempt transaction is subject to verification
1977 by the department.

1978 (c) Notwithstanding the provisions of paragraph (a), it is
1979 not the intention of this chapter to levy a tax on the sale by a
1980 printer to a nonresident print purchaser of material printed by
1981 that printer for that nonresident print purchaser when the print
1982 purchaser does not furnish the printer a resale certificate
1983 containing a sales tax registration number but does furnish to
1984 the printer a statement declaring that such material will be
1985 resold by the nonresident print purchaser.

1986 (17) This subsection shall be used to determine the
1987 location where a transaction occurs for purposes of applying the
1988 tax imposed by this chapter.

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(a) For purposes of this subsection, the terms "receive" and "receipt" mean:

1. Taking possession of tangible personal property;
2. Making first use of services; or
3. Taking possession or making first use of digital goods,
whichever occurs first.

The terms do not include possession by a shipping company on behalf of the purchaser.

(b) For purposes of this subsection, the term "product" means tangible personal property, a digital good, or a service.

(c) This section does not apply to sales or use taxes levied on:

1. The retail sale or transfer of a boat, modular home, manufactured home, or mobile home.
2. The retail sale, excluding a lease or rental, of a motor vehicle or aircraft that does not qualify as transportation equipment, as defined in paragraph (g). The lease or rental of these items shall be deemed to have occurred in accordance with paragraph (f).
3. The retail sale of tangible personal property by a florist.

Such retail sales are deemed to take place at the location determined under s. 212.054(4).

(d) The retail sale of a product, excluding a lease or rental, shall be deemed to take place:

1. When the product is received by the purchaser at a

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business location of the seller, at that business location;

2. When the product is not received by the purchaser at a business location of the seller, at the location of receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

3. When subparagraphs 1. and 2. do not apply, at the location indicated by an address for the purchaser which is available from the business records of the seller which are maintained in the ordinary course of the seller's business, if use of this address does not constitute bad faith;

4. When subparagraphs 1., 2., and 3. do not apply, at the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, if use of this address does not constitute bad faith;
or

5. When subparagraphs 1., 2., 3., and 4. do not apply, including when the seller is without sufficient information to apply the previous subparagraphs, at the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding any location that merely provided the digital transfer of the product sold.

(e) The lease or rental of tangible personal property, other than property identified in paragraphs (f) and (g), shall be deemed to have occurred as follows:

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2045 1. For a lease or rental that requires recurring periodic
2046 payments, the first periodic payment is deemed to take place in
2047 accordance with paragraph (d), notwithstanding the exclusion of
2048 lease or rental in paragraph (d). Subsequent periodic payments
2049 are deemed to have occurred at the primary property location for
2050 each period covered by the payment. The primary property
2051 location is determined by an address for the property provided
2052 by the lessee which is available to the lessor from its records
2053 maintained in the ordinary course of business, if use of this
2054 address does not constitute bad faith. The property location is
2055 not altered by intermittent use of the property at different
2056 locations, such as use of business property that accompanies
2057 employees on business trips and service calls.

2058 2. For a lease or rental that does not require recurring
2059 periodic payments, the payment is deemed to take place in
2060 accordance with paragraph (d), notwithstanding the exclusion of
2061 a lease or rental in paragraph (d).

2062 3. This paragraph does not affect the imposition or
2063 computation of sales or use tax on leases or rentals based on a
2064 lump sum or accelerated basis or on the acquisition of property
2065 for lease.

2066 (f) The lease or rental of a motor vehicle or aircraft
2067 that does not qualify as transportation equipment, as defined in
2068 paragraph (g), shall be sourced as follows:

2069 1. For a lease or rental that requires recurring periodic
2070 payments, each periodic payment is deemed to take place at the
2071 primary property location. The primary property location shall
2072 be determined by an address for the property provided by the

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lessee which is available to the lessor from its records
maintained in the ordinary course of business, if use of this
address does not constitute bad faith. This location may not be
altered by intermittent use at different locations.

2. For a lease or rental that does not require recurring
periodic payments, the payment is deemed to take place in
accordance with paragraph (d), notwithstanding the exclusion of
a lease or rental in paragraph (d).

3. This paragraph does not affect the imposition or
computation of sales or use tax on leases or rentals based on a
lump sum or accelerated basis or on the acquisition of property
for lease.

(g) The retail sale, including a lease or rental, of
transportation equipment shall be deemed to take place in
accordance with paragraph (d), notwithstanding the exclusion of
a lease or rental in paragraph (d). The term "transportation
equipment" means:

1. Locomotives and rail cars that are used for the
carriage of persons or property in interstate commerce;

2. Trucks and truck tractors with a gross vehicle weight
rating (GVWR) of 10,001 pounds or greater, trailers,
semitrailers, or passenger buses that are registered through the
International Registration Plan and operated under authority of
a carrier authorized and certificated by the United States
Department of Transportation or another federal authority to
engage in the carriage of persons or property in interstate
commerce;

3. Aircraft that are operated by air carriers authorized

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and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

4. Containers designed for use on and component parts attached or secured on the items set forth in subparagraphs 1.-3.

Section 9. Paragraph (c) of subsection (1) of section 212.07, Florida Statutes, is amended, and subsection (10) is added that section, to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.-

(1)

(c) Unless the purchaser of tangible personal property that is incorporated into tangible personal property manufactured, produced, compounded, processed, or fabricated for one's own use and subject to the tax imposed under s. 212.06(1)(b) or is purchased for export under s. 212.06(5)(a) ~~1-~~ extends a certificate in compliance with the rules of the department, the dealer shall himself or herself be liable for and pay the tax.

(10) (a) The executive director is authorized to maintain and publish a taxability matrix in a downloadable format that has been approved by the governing board of the Streamlined Sales and Use Tax Agreement.

(b) The state shall provide notice of changes to the taxability of the products or services listed in the taxability

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2129 matrix.

2130 (c) A seller or certified service provider who collects
2131 and remits the state and local tax imposed by this chapter shall
2132 be held harmless from tax, interest, and penalties for having
2133 charged and collected the incorrect amount of sales or use tax
2134 due solely as a result of relying on erroneous data provided by
2135 the state in the taxability matrix.

2136 (d) A purchaser shall be held harmless from penalties for
2137 having failed to pay the correct amount of sales or use tax due
2138 solely as a result of any of the following circumstances:

2139 1. The seller or certified service provider relied on
2140 erroneous data provided by the state in the taxability matrix
2141 completed by the state;

2142 2. A purchaser relied on erroneous data provided by the
2143 state in the taxability matrix completed by the state; or

2144 3. A purchaser holding a direct-pay permit relied on
2145 erroneous data provided by the state in the taxability matrix
2146 completed by the state.

2147 (e) A purchaser shall be held harmless from tax and
2148 interest for having failed to pay the correct amount of sales or
2149 use tax due solely as a result of the state's erroneous
2150 classification in the taxability matrix of terms included in the
2151 library of definitions as "taxable" or "exempt," "included in
2152 sales price" or "excluded from sales price," or "included in the
2153 definition" or "excluded from the definition."

2154 Section 10. Subsections (1) and (2) and paragraphs (b) and
2155 (c) of subsection (17) of section 212.08, Florida Statutes, are
2156 amended to read:

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212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—

(a) Food and food ingredients products for human consumption are exempt from the tax imposed by this chapter.

(b) For the purpose of this chapter, as used in this subsection, the term "food and food ingredients products" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, which are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value ~~edible commodities, whether processed, cooked, raw, canned, or in any other form, which are generally regarded as food~~. This includes, but is not limited to, all of the following:

~~1. Cereals and cereal products, baked goods, oleomargarine, meat and meat products, fish and seafood products, frozen foods and dinners, poultry, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices, salt, sugar and sugar products, milk and dairy products, and products intended to be mixed with milk.~~

~~2. Natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or~~

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2185 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~
2186 ~~unless it is sold in a liquid form.~~

2187 1.3. Bakery products sold by bakeries, pastry shops, or
2188 like establishments, if sold without eating utensils. For
2189 purposes of this subparagraph, bakery products include bread,
2190 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,
2191 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and
2192 tortillas that do not have eating facilities.

2193 2. Dietary supplements. The term "dietary supplements"
2194 means any product, other than tobacco, intended to supplement
2195 the diet which contains one or more of the following dietary
2196 ingredients: a vitamin; a mineral; an herb or other botanical;
2197 an amino acid; a dietary substance for use by humans to
2198 supplement the diet by increasing the total dietary intake; or a
2199 concentrate, metabolite, constituent, extract, or combination of
2200 any ingredient described in this subparagraph which is intended
2201 for ingestion in tablet, capsule, powder, softgel, gelcap, or
2202 liquid form or, if not intended for ingestion in such a form, is
2203 not represented as conventional food and is not represented for
2204 use as a sole item of a meal or of the diet, and which is
2205 required to be labeled as a dietary supplement, identifiable by
2206 the supplemental facts panel found on the label and as required
2207 pursuant to 21 C.F.R. s. 101.36.

2208 (c) The exemption provided by this subsection does not
2209 apply to:

2210 ~~1. Food products sold as meals for consumption on or off~~
2211 ~~the premises of the dealer.~~

2212 ~~2. Food products furnished, prepared, or served for~~

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~~consumption at tables, chairs, or counters or from trays,
glasses, dishes, or other tableware, whether provided by the
dealer or by a person with whom the dealer contracts to furnish,
prepare, or serve food products to others.~~

~~3. Food products ordinarily sold for immediate consumption
on the seller's premises or near a location at which parking
facilities are provided primarily for the use of patrons in
consuming the products purchased at the location, even though
such products are sold on a "take out" or "to go" order and are
actually packaged or wrapped and taken from the premises of the
dealer.~~

~~4. Sandwiches sold ready for immediate consumption on or
off the seller's premises.~~

~~5. Food products sold ready for immediate consumption
within a place, the entrance to which is subject to an admission
charge.~~

~~1.6.~~ To food and food ingredients sold as prepared food.
The term "prepared food" means:

a. Food sold in a heated state or heated by the seller;

b. Two or more food ingredients mixed or combined by the
seller for sale as a single item; or

c. Food sold with eating utensils provided by the seller,
including plates, knives, forks, spoons, glasses, cups, napkins,
or straws. A plate does not include a container or packaging
used to transport food.

Prepared food does not include food that is only cut,
repackaged, or pasteurized by the seller, eggs, fish, meat,

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2241 poultry, and foods containing these raw animal foods requiring
2242 cooking by the consumer as recommended by the Food and Drug
2243 Administration in chapter 3, part 4011 of its food code so as to
2244 prevent food-borne illness. ~~Food products sold as hot prepared~~
2245 ~~food products.~~

2246 2.7. ~~Soft drinks, including, but not limited to, any~~
2247 ~~nonalcoholic beverage, any preparation or beverage commonly~~
2248 ~~referred to as a "soft drink," or any noncarbonated drink made~~
2249 ~~from milk derivatives or tea, if sold in cans or similar~~
2250 ~~containers.~~ The term "soft drinks" means nonalcoholic beverages
2251 that contain natural or artificial sweeteners. Soft drinks do
2252 not include beverages that contain milk or milk products, soy,
2253 rice, or similar milk substitutes, or greater than 50 percent of
2254 vegetable or fruit juice by volume.

2255 ~~8.~~ ~~Ice cream, frozen yogurt, and similar frozen dairy or~~
2256 ~~nondairy products in cones, small cups, or pints, popsicles,~~
2257 ~~frozen fruit bars, or other novelty items, whether or not sold~~
2258 ~~separately.~~

2259 ~~9.~~ ~~Food that is prepared, whether on or off the premises,~~
2260 ~~and sold for immediate consumption. This does not apply to food~~
2261 ~~prepared off the premises and sold in the original sealed~~
2262 ~~container, or the slicing of products into smaller portions.~~

2263 3.10. Food and food ingredients ~~products~~ sold through a
2264 vending machine, pushcart, motor vehicle, or any other form of
2265 vehicle.

2266 4.11. Candy and any similar product regarded as candy or
2267 confection, based on its normal use, as indicated on the label
2268 or advertising thereof. The term "candy" means a preparation of

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sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation that contains flour and does not require refrigeration.

5. To tobacco.

~~12. Bakery products sold by bakeries, pastry shops, or like establishments having eating facilities, except when sold for consumption off the seller's premises.~~

~~13. Food products served, prepared, or sold in or by restaurants, lunch counters, cafeterias, hotels, taverns, or other like places of business.~~

~~(d) As used in this subsection, the term:~~

~~1. "For consumption off the seller's premises" means that the food or drink is intended by the customer to be consumed at a place away from the dealer's premises.~~

~~2. "For consumption on the seller's premises" means that the food or drink sold may be immediately consumed on the premises where the dealer conducts his or her business. In determining whether an item of food is sold for immediate consumption, the customary consumption practices prevailing at the selling facility shall be considered.~~

~~3. "Premises" shall be construed broadly, and means, but is not limited to, the lobby, aisle, or auditorium of a theater; the seating, aisle, or parking area of an arena, rink, or stadium; or the parking area of a drive-in or outdoor theater. The premises of a caterer with respect to catered meals or beverages shall be the place where such meals or beverages are~~

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2297 served.

2298 4. ~~"Hot prepared food products" means those products,~~
2299 ~~items, or components which have been prepared for sale in a~~
2300 ~~heated condition and which are sold at any temperature that is~~
2301 ~~higher than the air temperature of the room or place where they~~
2302 ~~are sold. "Hot prepared food products," for the purposes of this~~
2303 ~~subsection, includes a combination of hot and cold food items or~~
2304 ~~components where a single price has been established for the~~
2305 ~~combination and the food products are sold in such combination,~~
2306 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~
2307 ~~sandwich or hot pizza, including cold components or side items.~~

2308 (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),
2309 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those
2310 paragraphs, when purchased with food coupons or Special
2311 Supplemental Food Program for Women, Infants, and Children
2312 vouchers issued under authority of federal law.

2313 2. This paragraph is effective only while federal law
2314 prohibits a state's participation in the federal food coupon
2315 program or Special Supplemental Food Program for Women, Infants,
2316 and Children if there is an official determination that state or
2317 local sales taxes are collected within that state on purchases
2318 of food or drinks with such coupons.

2319 3. This paragraph does ~~shall~~ not apply to any food or
2320 drinks on which federal law permits ~~shall permit~~ sales taxes
2321 without penalty, such as termination of the state's
2322 participation.

2323 (e) Dietary supplements that are sold as prepared food are
2324 not exempt.

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(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter:

1. Drugs.

2. Durable medical equipment, mobility-enhancing equipment, or prosthetic devices ~~any medical products and supplies or medicine~~ dispensed according to an individual prescription or prescriptions. ~~written by a prescriber authorized by law to prescribe medicinal drugs;~~

3. Hypodermic needles. ~~hypodermic syringes;~~

4. Chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury and intended for one-time use.

5. Over-the-counter drugs ~~and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings,~~ but not including grooming and hygiene products.

6. Band-aids, gauze, bandages, and adhesive tape.

7. Funerals. However, tangible personal property used by funeral directors in their business is taxable. ~~cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items~~

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~~incidental thereto or which become a part thereof; dentures;
hearing aids; crutches; prosthetic and orthopedic appliances;
and funerals. In addition, any~~

8. Items intended for one-time use which transfer
essential optical characteristics to contact lenses. ~~shall be
exempt from the tax imposed by this chapter;~~ However, this
exemption applies ~~shall apply only~~ after \$100,000 of the tax
imposed by this chapter on such items has been paid in any
calendar year by a taxpayer who claims the exemption in such
year. ~~Funeral directors shall pay tax on all tangible personal
property used by them in their business.~~

(b) For the purposes of this subsection, the term:

1. "Drug" means a compound, substance, or preparation, and
any component of a compound, substance, or preparation, other
than food and food ingredients, dietary supplements, and
alcoholic beverages, which is:

a. Recognized in the official United States Pharmacopoeia,
official Homeopathic Pharmacopoeia of the United States, or
official National Formulary, or the supplement to any of them;

b. Intended for use in the diagnosis, cure, mitigation,
treatment, or prevention of disease; or

c. Intended to affect the structure or any function of the
body.

2. "Durable medical equipment" means equipment, including
repair and replacement parts to such equipment, but excluding
mobility-enhancing equipment, which can withstand repeated use,
is primarily and customarily used to serve a medical purpose,
generally is not useful to a person in the absence of illness or

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injury, and is not worn on or in the body.

3. "Mobility-enhancing equipment" means equipment, including repair and replacement parts to such equipment, but excluding durable medical equipment, which:

a. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use in a home or a motor vehicle.

b. Is not generally used by persons with normal mobility.

c. Does not include any motor vehicle or any equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

4. "Prosthetic device" means a replacement, corrective, or supportive device, including repair or replacement parts to such equipment, which is worn on or in the body to:

a. Artificially replace a missing portion of the body;

b. Prevent or correct physical deformity or malfunction;
or

c. Support a weak or deformed portion of the body.

5. "Grooming and hygiene products" mean soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of an over-the-counter drug.

6. "Over-the-counter drug" means a drug the packaging for which contains a label that identifies the product as a drug as required by 21 C.F.R. s. 201.66. The over-the-counter drug label includes a drug-facts panel or a statement of the active ingredients, with a list of those ingredients contained in the compound, substance, or preparation. ~~"Prosthetic and orthopedic~~

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2409 ~~appliances" means any apparatus, instrument, device, or~~
2410 ~~equipment used to replace or substitute for any missing part of~~
2411 ~~the body, to alleviate the malfunction of any part of the body,~~
2412 ~~or to assist any disabled person in leading a normal life by~~
2413 ~~facilitating such person's mobility. Such apparatus, instrument,~~
2414 ~~device, or equipment shall be exempted according to an~~
2415 ~~individual prescription or prescriptions written by a physician~~
2416 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~
2417 ~~461, or chapter 466, or according to a list prescribed and~~
2418 ~~approved by the Department of Health, which list shall be~~
2419 ~~certified to the Department of Revenue from time to time and~~
2420 ~~included in the rules promulgated by the Department of Revenue.~~

2421 ~~2. "Cosmetics" means articles intended to be rubbed,~~
2422 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~
2423 ~~applied to the human body for cleansing, beautifying, promoting~~
2424 ~~attractiveness, or altering the appearance and also means~~
2425 ~~articles intended for use as a compound of any such articles,~~
2426 ~~including, but not limited to, cold creams, suntan lotions,~~
2427 ~~makeup, and body lotions.~~

2428 ~~3. "Toilet articles" means any article advertised or held~~
2429 ~~out for sale for grooming purposes and those articles that are~~
2430 ~~customarily used for grooming purposes, regardless of the name~~
2431 ~~by which they may be known, including, but not limited to, soap,~~
2432 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~
2433 ~~shampoo, deodorant, and mouthwash.~~

2434 7.4. "Prescription" means an order, formula, or recipe
2435 issued in any form of oral, written, electronic, or other means
2436 of transmission by a practitioner licensed under chapter 458,

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chapter 459, chapter 460, chapter 461, or chapter 466. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense the order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. ~~includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term also includes a pharmacist's order for a product selected from the formulary created pursuant to s. 465.186. A prescription may be retained in written form, or the pharmacist may cause it to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.~~

(c) Chlorine ~~is~~ shall not be exempt from the tax imposed by this chapter when used for the treatment of water in swimming

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2465 pools.

2466 ~~(d) Lithotripters are exempt.~~

2467 (d)~~(e)~~ Human organs are exempt.

2468 ~~(f) Sales of drugs to or by physicians, dentists,~~
2469 ~~veterinarians, and hospitals in connection with medical~~
2470 ~~treatment are exempt.~~

2471 ~~(g) Medical products and supplies used in the cure,~~
2472 ~~mitigation, alleviation, prevention, or treatment of injury,~~
2473 ~~disease, or incapacity which are temporarily or permanently~~
2474 ~~incorporated into a patient or client by a practitioner of the~~
2475 ~~healing arts licensed in the state are exempt.~~

2476 ~~(h) The purchase by a veterinarian of commonly recognized~~
2477 ~~substances possessing curative or remedial properties which are~~
2478 ~~ordered and dispensed as treatment for a diagnosed health~~
2479 ~~disorder by or on the prescription of a duly licensed~~
2480 ~~veterinarian, and which are applied to or consumed by animals~~
2481 ~~for alleviation of pain or the cure or prevention of sickness,~~
2482 ~~disease, or suffering are exempt. Also exempt are the purchase~~
2483 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~
2484 ~~bandages, lotions, vitamins, and worm remedies.~~

2485 ~~(i) X-ray opaques, also known as opaque drugs and~~
2486 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~
2487 ~~when used in connection with medical X rays for treatment of~~
2488 ~~bodies of humans and animals, are exempt.~~

2489 (e)~~(j)~~ Parts, special attachments, special lettering, and
2490 other like items that are added to or attached to tangible
2491 personal property so that a handicapped person can use them are
2492 exempt when such items are purchased by a person pursuant to an

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individual prescription.

~~(f) (k)~~ This subsection shall be strictly construed and enforced.

(17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

(b) As used in this subsection, the term "overhead materials" means all tangible personal property, other than qualifying property as defined in s. 212.02 ~~(34)~~ ~~(14)~~ (a) and electricity, which is used or consumed in the performance of a qualifying contract, title to which property vests in or passes to the government under the contract.

(c) As used in this subsection and in s. 212.02 ~~(34)~~ ~~(14)~~ (a), the term "qualifying contract" means a contract with the United States Department of Defense or the National Aeronautics and Space Administration, or a subcontract thereunder, but does not include a contract or subcontract for the repair, alteration, improvement, or construction of real property, except to the extent that purchases under such a contract would otherwise be exempt from the tax imposed by this chapter.

Section 11. Section 212.094, Florida Statutes, is created to read:

212.094 Purchaser request for refund or credit from dealer.—

(1) If a purchaser seeks from a dealer a refund of or credit against a tax collected under this chapter by that dealer, the purchaser shall submit a written request for the refund or credit to the dealer in accordance with this section. The request must contain all the information necessary for the

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2521 dealer to determine the validity of the purchaser's request.

2522 (2) The purchaser may not take any other action against
2523 the dealer with respect to the requested refund or credit until
2524 the dealer has had 60 days after receiving a completed request
2525 in which to respond.

2526 (3) This section does not affect a person's standing to
2527 claim a refund.

2528 (4) This section does not apply to refunds resulting from
2529 merchandise returned by a customer to a dealer.

2530 Section 12. Section 212.12, Florida Statutes, is amended
2531 to read:

2532 212.12 Dealer's credit for collecting tax; penalties for
2533 noncompliance; powers of Department of Revenue in dealing with
2534 delinquents; ~~brackets applicable to taxable transactions;~~
2535 records required.—

2536 (1) Notwithstanding any other provision of law and for the
2537 purpose of compensating persons granting licenses for and the
2538 lessors of real and personal property taxed hereunder, for the
2539 purpose of compensating dealers in tangible personal property,
2540 for the purpose of compensating dealers providing communication
2541 services and taxable services, for the purpose of compensating
2542 owners of places where admissions are collected, and for the
2543 purpose of compensating remitters of any taxes or fees reported
2544 on the same documents utilized for the sales and use tax, as
2545 compensation for the keeping of prescribed records, filing
2546 timely tax returns, and the proper accounting and remitting of
2547 taxes by them, such seller, person, lessor, dealer, owner, and
2548 remitter ~~(except dealers who make mail order sales)~~ shall be

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2549 allowed 2.5 percent of the amount of the tax due and accounted
2550 for and remitted to the department, in the form of a deduction
2551 in submitting his or her report and paying the amount due by him
2552 or her; the department shall allow such deduction of 2.5 percent
2553 of the amount of the tax to the person paying the same for
2554 remitting the tax and making of tax returns in the manner herein
2555 provided, for paying the amount due to be paid by him or her,
2556 and as further compensation to dealers in tangible personal
2557 property for the keeping of prescribed records and for
2558 collection of taxes and remitting the same. However, if the
2559 amount of the tax due and remitted to the department for the
2560 reporting period exceeds \$1,200, no allowance shall be allowed
2561 for all amounts in excess of \$1,200. ~~The executive director of~~
2562 ~~the department is authorized to negotiate a collection~~
2563 ~~allowance, pursuant to rules promulgated by the department, with~~
2564 ~~a dealer who makes mail order sales. The rules of the department~~
2565 ~~shall provide guidelines for establishing the collection~~
2566 ~~allowance based upon the dealer's estimated costs of collecting~~
2567 ~~the tax, the volume and value of the dealer's mail order sales~~
2568 ~~to purchasers in this state, and the administrative and legal~~
2569 ~~costs and likelihood of achieving collection of the tax absent~~
2570 ~~the cooperation of the dealer. However, in no event shall the~~
2571 ~~collection allowance negotiated by the executive director exceed~~
2572 ~~10 percent of the tax remitted for a reporting period.~~

2573 (a) The Department of Revenue may deny the collection
2574 allowance if a taxpayer files an incomplete return or if the
2575 required tax return or tax is delinquent at the time of payment.

2576 1. An "incomplete return" is, for purposes of this

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chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, review of the return, or determination of other taxes and fees reported on the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, reported, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. Sales made through vending machines as defined in s. 212.0515 must be separately shown on the return. Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(b) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same

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documents used for the sales and use tax.

(c)1. A dealer entitled to the collection allowance provided in this section may elect to forego the collection allowance and direct that said amount be transferred into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return and may not be rescinded once made. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

2. This paragraph applies to all taxes, surtaxes, and any local option taxes administered under this chapter and remitted directly to the department. This paragraph does not apply to any locally imposed and self-administered convention development tax, tourist development tax, or tourist impact tax administered under this chapter.

3. Revenues from the dealer-collection allowances shall be transferred quarterly from the General Revenue Fund to the

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Educational Enhancement Trust Fund. The Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

Notwithstanding any provision of chapter 120 to the contrary, the Department of Revenue may adopt rules to carry out the amendment made by chapter 2006-52, Laws of Florida, to this section.

(d) Notwithstanding paragraphs (a) and (b), a Model 1 seller under the Streamlined Sales and Use Tax Agreement is not entitled to the collection allowance described in paragraphs (a) and (b).

(e)1. In addition to any collection allowance that may be provided under this subsection, the department may provide the monetary allowances required to be provided by the state to certified service providers and voluntary sellers pursuant to Article VI of the Streamlined Sales and Use Tax Agreement, as amended.

2. Such monetary allowances must be in the form of collection allowances that certified service providers or voluntary sellers are permitted to retain from the tax revenues collected on remote sales to be remitted to the state pursuant to this chapter.

3. For purposes of this paragraph, the term "voluntary seller" or "volunteer seller" means a seller that is not required to register in this state to collect a tax. The term "remote sales" means revenues generated by such a seller for

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2661 this state for which the seller is not required to register to
2662 collect the tax imposed by this chapter.

2663 (2) (a) When any person required hereunder to make any
2664 return or to pay any tax or fee imposed by this chapter either
2665 fails to timely file such return or fails to pay the tax or fee
2666 shown due on the return within the time required hereunder, in
2667 addition to all other penalties provided herein and by the laws
2668 of this state in respect to such taxes or fees, a specific
2669 penalty shall be added to the tax or fee in the amount of 10
2670 percent of either the tax or fee shown on the return that is not
2671 timely filed or any tax or fee not paid timely. The penalty may
2672 not be less than \$50 for failure to timely file a tax return
2673 required by s. 212.11(1) or timely pay the tax or fee shown due
2674 on the return except as provided in s. 213.21(10). If a person
2675 fails to timely file a return required by s. 212.11(1) and to
2676 timely pay the tax or fee shown due on the return, only one
2677 penalty of 10 percent, which may not be less than \$50, shall be
2678 imposed.

2679 (b) When any person required under this section to make a
2680 return or to pay a tax or fee imposed by this chapter fails to
2681 disclose the tax or fee on the return within the time required,
2682 excluding a noncompliant filing event generated by situations
2683 covered in paragraph (a), in addition to all other penalties
2684 provided in this section and by the laws of this state in
2685 respect to such taxes or fees, a specific penalty shall be added
2686 to the additional tax or fee owed in the amount of 10 percent of
2687 any such unpaid tax or fee not paid timely if the failure is for
2688 not more than 30 days, with an additional 10 percent of any such

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unpaid tax or fee for each additional 30 days, or fraction thereof, while the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee.

(c) Any person who knowingly and with a willful intent to evade any tax imposed under this chapter fails to file six consecutive returns as required by law commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(d) Any person who makes a false or fraudulent return with a willful intent to evade payment of any tax or fee imposed under this chapter; any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of the requirement to register the person's business as a dealer, intentionally fails to register the business; and any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of the requirement to collect tax on specific transactions, intentionally fails to collect such tax, shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of any unreported or any uncollected tax or fee and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084. Delivery of written notice may be made by certified mail, or by the use of such other method as is documented as being necessary and reasonable under the circumstances. The civil and criminal penalties imposed herein for failure to comply with a written notice

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2717 alerting the person of the requirement to register the person's
2718 business as a dealer or to collect tax on specific transactions
2719 shall not apply if the person timely files a written challenge
2720 to such notice in accordance with procedures established by the
2721 department by rule or the notice fails to clearly advise that
2722 failure to comply with or timely challenge the notice will
2723 result in the imposition of the civil and criminal penalties
2724 imposed herein.

2725 1. If the total amount of unreported or uncollected taxes
2726 or fees is less than \$300, the first offense resulting in
2727 conviction is a misdemeanor of the second degree, the second
2728 offense resulting in conviction is a misdemeanor of the first
2729 degree, and the third and all subsequent offenses resulting in
2730 conviction is a misdemeanor of the first degree, and the third
2731 and all subsequent offenses resulting in conviction are felonies
2732 of the third degree.

2733 2. If the total amount of unreported or uncollected taxes
2734 or fees is \$300 or more but less than \$20,000, the offense is a
2735 felony of the third degree.

2736 3. If the total amount of unreported or uncollected taxes
2737 or fees is \$20,000 or more but less than \$100,000, the offense
2738 is a felony of the second degree.

2739 4. If the total amount of unreported or uncollected taxes
2740 or fees is \$100,000 or more, the offense is a felony of the
2741 first degree.

2742 (e) A person who willfully attempts in any manner to evade
2743 any tax, surcharge, or fee imposed under this chapter or the
2744 payment thereof is, in addition to any other penalties provided

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by law, liable for a specific penalty in the amount of 100 percent of the tax, surcharge, or fee, and commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to 10 percent of any unpaid estimated tax. Beginning with January 1, 1985, returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph. However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

(g) A dealer who files a consolidated return pursuant to s. 212.11(1)(e) is subject to the penalty established in paragraph (e) unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (f).

(3) When any dealer, or other person charged herein, fails to remit the tax, or any portion thereof, on or before the day when such tax is required by law to be paid, there shall be added to the amount due interest at the rate of 1 percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due,

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except as otherwise provided in this chapter.

(4) All penalties and interest imposed by this chapter shall be payable to and collectible by the department in the same manner as if they were a part of the tax imposed. The department may settle or compromise any such interest or penalties pursuant to s. 213.21.

(5) (a) The department is authorized to audit or inspect the records and accounts of dealers defined herein, ~~including audits or inspections of dealers who make mail order sales to the extent permitted by another state,~~ and to correct by credit any overpayment of tax, and, in the event of a deficiency, an assessment shall be made and collected. No administrative finding of fact is necessary prior to the assessment of any tax deficiency.

(b) In the event any dealer or other person charged herein fails or refuses to make his or her records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this chapter, makes a grossly incorrect report or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption

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2801 or distribution or storage to be used or consumed in this state,
2802 or of the sales or cost price of all services the sale or use of
2803 which is taxable under this chapter, together with interest,
2804 plus penalty, if such have accrued, as the case may be. Then the
2805 department shall proceed to collect such taxes, interest, and
2806 penalty on the basis of such assessment which shall be
2807 considered prima facie correct, and the burden to show the
2808 contrary shall rest upon the dealer, seller, owner, or lessor,
2809 as the case may be.

2810 (6)(a) The department is given the power to prescribe the
2811 records to be kept by all persons subject to taxes imposed by
2812 this chapter. It shall be the duty of every person required to
2813 make a report and pay any tax under this chapter, every person
2814 receiving rentals or license fees, and owners of places of
2815 admission, to keep and preserve suitable records of the sales,
2816 leases, rentals, license fees, admissions, or purchases, as the
2817 case may be, taxable under this chapter; such other books of
2818 account as may be necessary to determine the amount of the tax
2819 due hereunder; and other information as may be required by the
2820 department. It shall be the duty of every such person so charged
2821 with such duty, moreover, to keep and preserve as long as
2822 required by s. 213.35 all invoices and other records of goods,
2823 wares, and merchandise; records of admissions, leases, license
2824 fees and rentals; and records of all other subjects of taxation
2825 under this chapter. All such books, invoices, and other records
2826 shall be open to examination at all reasonable hours to the
2827 department or any of its duly authorized agents.

2828 (b) For the purpose of this subsection, if a dealer does

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not have adequate records of his or her retail sales or purchases, the department may, upon the basis of a test or sampling of the dealer's available records or other information relating to the sales or purchases made by such dealer for a representative period, determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. This subsection does not affect the duty of the dealer to collect, or the liability of any consumer to pay, any tax imposed by or pursuant to this chapter.

(c)1. If the records of a dealer are adequate but voluminous in nature and substance, the department may sample such records and project the audit findings derived therefrom over the entire audit period to determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. In order to conduct such a sample, the department must first make a good faith effort to reach an agreement with the dealer, which agreement provides for the means and methods to be used in the sampling process. In the event that no agreement is reached, the dealer is entitled to a review by the executive director. In the case of fixed assets, a dealer may agree in writing with the department for adequate but voluminous records to be statistically sampled. Such an agreement shall provide for the methodology to be used in the statistical sampling process. The audit findings derived therefrom shall be projected over the period represented by the sample in order to determine the proportion that taxable purchases bear to total purchases. Once

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an agreement has been signed, it is final and conclusive with respect to the method of sampling fixed assets, and the department may not conduct a detailed audit of fixed assets, and the taxpayer may not request a detailed audit after the agreement is reached.

2. For the purposes of sampling pursuant to subparagraph 1., the department shall project any deficiencies and overpayments derived therefrom over the entire audit period. In determining the dealer's compliance, the department shall reduce any tax deficiency as derived from the sample by the amount of any overpayment derived from the sample. In the event the department determines from the sample results that the dealer has a net tax overpayment, the department shall provide the findings of this overpayment to the Chief Financial Officer for repayment of funds paid into the State Treasury through error pursuant to s. 215.26.

3.a. A taxpayer is entitled, both in connection with an audit and in connection with an application for refund filed independently of any audit, to establish the amount of any refund or deficiency through statistical sampling when the taxpayer's records are adequate but voluminous. In the case of fixed assets, a dealer may agree in writing with the department for adequate but voluminous records to be statistically sampled. Such an agreement shall provide for the methodology to be used in the statistical sampling process. The audit findings derived therefrom shall be projected over the period represented by the sample in order to determine the proportion that taxable purchases bear to total purchases. Once an agreement has been

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signed, it is final and conclusive with respect to the method of sampling fixed assets, and the department may not conduct a detailed audit of fixed assets, and the taxpayer may not request a detailed audit after the agreement is reached.

b. Alternatively, a taxpayer is entitled to establish any refund or deficiency through any other sampling method agreed upon by the taxpayer and the department when the taxpayer's records, other than those regarding fixed assets, are adequate but voluminous. Whether done through statistical sampling or any other sampling method agreed upon by the taxpayer and the department, the completed sample must reflect both overpayments and underpayments of taxes due. The sample shall be conducted through:

(I) A taxpayer request to perform the sampling through the certified audit program pursuant to s. 213.285;

(II) Attestation by a certified public accountant as to the adequacy of the sampling method utilized and the results reached using such sampling method; or

(III) A sampling method that has been submitted by the taxpayer and approved by the department before a refund claim is submitted. This sub-sub-subparagraph does not prohibit a taxpayer from filing a refund claim prior to approval by the department of the sampling method; however, a refund claim submitted before the sampling method has been approved by the department cannot be a complete refund application pursuant to s. 213.255 until the sampling method has been approved by the department.

c. The department shall prescribe by rule the procedures

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2913 to be followed under each method of sampling. Such procedures
2914 shall follow generally accepted auditing procedures for
2915 sampling. The rule shall also set forth other criteria regarding
2916 the use of sampling, including, but not limited to, training
2917 requirements that must be met before a sampling method may be
2918 utilized and the steps necessary for the department and the
2919 taxpayer to reach agreement on a sampling method submitted by
2920 the taxpayer for approval by the department.

2921 (7) In the event the dealer has imported tangible personal
2922 property and he or she fails to produce an invoice showing the
2923 cost price of the articles, as defined in this chapter, which
2924 are subject to tax, or the invoice does not reflect the true or
2925 actual cost price as defined herein, then the department shall
2926 ascertain, in any manner feasible, the true cost price, and
2927 assess and collect the tax thereon with interest plus penalties,
2928 if such have accrued on the true cost price as assessed by it.
2929 The assessment so made shall be considered prima facie correct,
2930 and the duty shall be on the dealer to show to the contrary.

2931 (8) In the case of the lease or rental of tangible
2932 personal property, or other rentals or license fees as herein
2933 defined and taxed, if the consideration given or reported by the
2934 lessor, person receiving rental or license fee, or dealer does
2935 not, in the judgment of the department, represent the true or
2936 actual consideration, then the department is authorized to
2937 ascertain the same and assess and collect the tax thereon in the
2938 same manner as above provided, with respect to imported tangible
2939 property, together with interest, plus penalties, if such have
2940 accrued.

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2941 (9) Taxes imposed by this chapter upon the privilege of
2942 the use, consumption, storage for consumption, or sale of
2943 tangible personal property, admissions, license fees, rentals,
2944 communication services, and upon the sale or use of services as
2945 herein taxed shall be collected upon the basis of an addition of
2946 the tax imposed by this chapter to the total price of such
2947 admissions, license fees, rentals, communication or other
2948 services, or sale price of such article or articles that are
2949 purchased, sold, or leased at any one time by or to a customer
2950 or buyer; the dealer, or person charged herein, is required to
2951 pay a privilege tax in the amount of the tax imposed by this
2952 chapter on the total of his or her gross sales of tangible
2953 personal property, admissions, license fees, rentals, and
2954 communication services or to collect a tax upon the sale or use
2955 of services, and such person or dealer shall add the tax imposed
2956 by this chapter to the price, license fee, rental, or
2957 admissions, and communication or other services and collect the
2958 total sum from the purchaser, admittee, licensee, lessee, or
2959 consumer. In computing the tax due or to be collected as the
2960 result of any transaction, the seller may elect to compute the
2961 tax due on a transaction on a per-item basis or on an invoice
2962 basis. The tax rate shall be the sum of the applicable state and
2963 local rates, if any, and the tax computation shall be carried to
2964 the third decimal place. Whenever the third decimal place is
2965 greater than four, the tax shall be rounded to the next whole
2966 cent. ~~The department shall make available in an electronic~~
2967 ~~format or otherwise the tax amounts and the following brackets~~
2968 ~~applicable to all transactions taxable at the rate of 6 percent.~~

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2969 ~~(a) On single sales of less than 10 cents, no tax shall be~~
2970 ~~added.~~

2971 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~
2972 ~~both inclusive, 1 cent shall be added for taxes.~~

2973 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~
2974 ~~inclusive, 2 cents shall be added for taxes.~~

2975 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~
2976 ~~inclusive, 3 cents shall be added for taxes.~~

2977 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~
2978 ~~inclusive, 4 cents shall be added for taxes.~~

2979 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~
2980 ~~inclusive, 5 cents shall be added for taxes.~~

2981 ~~(g) On sales in amounts from 84 cents to \$1, both~~
2982 ~~inclusive, 6 cents shall be added for taxes.~~

2983 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~
2984 ~~be charged upon each dollar of price, plus the appropriate~~
2985 ~~bracket charge upon any fractional part of a dollar.~~

2986 ~~(10) In counties which have adopted a discretionary sales~~
2987 ~~surtax at the rate of 1 percent, the department shall make~~
2988 ~~available in an electronic format or otherwise the tax amounts~~
2989 ~~and the following brackets applicable to all taxable~~
2990 ~~transactions that would otherwise have been transactions taxable~~
2991 ~~at the rate of 6 percent:~~

2992 ~~(a) On single sales of less than 10 cents, no tax shall be~~
2993 ~~added.~~

2994 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~
2995 ~~both inclusive, 1 cent shall be added for taxes.~~

2996 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~

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2997 ~~inclusive, 2 cents shall be added for taxes.~~

2998 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~

2999 ~~inclusive, 3 cents shall be added for taxes.~~

3000 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~

3001 ~~inclusive, 4 cents shall be added for taxes.~~

3002 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~

3003 ~~inclusive, 5 cents shall be added for taxes.~~

3004 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~

3005 ~~inclusive, 6 cents shall be added for taxes.~~

3006 ~~(h) On sales in amounts from 86 cents to \$1, both~~

3007 ~~inclusive, 7 cents shall be added for taxes.~~

3008 ~~(i) On sales in amounts from \$1 up to, and including, the~~

3009 ~~first \$5,000 in price, 7 percent shall be charged upon each~~

3010 ~~dollar of price, plus the appropriate bracket charge upon any~~

3011 ~~fractional part of a dollar.~~

3012 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~

3013 ~~percent shall be added upon the first \$5,000 in price, and 6~~

3014 ~~percent shall be added upon each dollar of price in excess of~~

3015 ~~the first \$5,000 in price, plus the bracket charges upon any~~

3016 ~~fractional part of a dollar as provided for in subsection (9).~~

3017 ~~(11) The department shall make available in an electronic~~

3018 ~~format or otherwise the tax amounts and brackets applicable to~~

3019 ~~all taxable transactions that occur in counties that have a~~

3020 ~~surtax at a rate other than 1 percent which transactions would~~

3021 ~~otherwise have been transactions taxable at the rate of 6~~

3022 ~~percent. Likewise, the department shall make available in an~~

3023 ~~electronic format or otherwise the tax amounts and brackets~~

3024 ~~applicable to transactions taxable at 7 percent pursuant to s.~~

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3025 ~~212.05(1)(c) and on transactions which would otherwise have been~~
3026 ~~so taxable in counties which have adopted a discretionary sales~~
3027 ~~surtax.~~

3028 (10)~~(12)~~ It is hereby declared to be the legislative
3029 intent that, whenever in the construction, administration, or
3030 enforcement of this chapter there may be any question respecting
3031 a duplication of the tax, the end consumer, or last retail sale,
3032 be the sale intended to be taxed and insofar as may be
3033 practicable there be no duplication or pyramiding of the tax.

3034 (11)~~(13)~~ In order to aid the administration and
3035 enforcement of the provisions of this chapter with respect to
3036 the rentals and license fees, each lessor or person granting the
3037 use of any hotel, apartment house, roominghouse, tourist or
3038 trailer camp, real property, or any interest therein, or any
3039 portion thereof, inclusive of owners; property managers;
3040 lessors; landlords; hotel, apartment house, and roominghouse
3041 operators; and all licensed real estate agents within the state
3042 leasing, granting the use of, or renting such property, shall be
3043 required to keep a record of each and every such lease, license,
3044 or rental transaction which is taxable under this chapter, in
3045 such a manner and upon such forms as the department may
3046 prescribe, and to report such transaction to the department or
3047 its designated agents, and to maintain such records as long as
3048 required by s. 213.35, subject to the inspection of the
3049 department and its agents. Upon the failure by such owner;
3050 property manager; lessor; landlord; hotel, apartment house,
3051 roominghouse, tourist or trailer camp operator; or real estate
3052 agent to keep and maintain such records and to make such reports

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upon the forms and in the manner prescribed, such owner; property manager; lessor; landlord; hotel, apartment house, roominghouse, tourist or trailer camp operator; receiver of rent or license fees; or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense; for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If, however, any subsequent offense involves intentional destruction of such records with an intent to evade payment of or deprive the state of any tax revenues, such subsequent offense shall be a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

~~(14) If it is determined upon audit that a dealer has collected and remitted taxes by applying the applicable tax rate to each transaction as described in subsection (9) and rounding the tax due to the nearest whole cent rather than applying the appropriate bracket system provided by law or department rule, the dealer shall not be held liable for additional tax, penalty, and interest resulting from such failure if:~~

~~(a) The dealer acted in a good faith belief that rounding to the nearest whole cent was the proper method of determining the amount of tax due on each taxable transaction.~~

~~(b) The dealer timely reported and remitted all taxes collected on each taxable transaction.~~

~~(c) The dealer agrees in writing to future compliance with the laws and rules concerning brackets applicable to the dealer's transactions.~~

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Section 13. Subsection (3) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; goods acquired for dealer's own use and subsequently resold; additional powers of department.—

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for any tax paid by the dealer on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. A dealer that has paid the tax imposed by this chapter on tangible personal property or services and that is not required to file federal income tax returns may take a credit against or obtain a refund for any tax paid by the dealer on the unpaid balance due on worthless accounts within 12 months after the month in which the bad debt is written off as uncollectible in the dealer's books and records and would be eligible for a bad-debt deduction for federal income tax purposes if the dealer was required to file a federal income tax return.

(a) A dealer that is taking a credit against or obtaining a refund on worthless accounts shall base the bad-debt-recovery calculation in accordance with 26 U.S.C. s. 166.

(b) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim must be filed, notwithstanding s. 215.26(2), within 3 years after the due date of the return on which the bad debt could first be claimed.

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3109 (c) If any accounts so charged off for which a credit or
3110 refund has been obtained are thereafter in whole or in part paid
3111 to the dealer, the amount so paid shall be included in the first
3112 return filed after such collection and the tax paid accordingly.

3113 (d) If filing responsibilities have been assumed by a
3114 certified service provider, the certified service provider shall
3115 claim, on behalf of the seller, any bad-debt allowance provided
3116 by this subsection. The certified service provider shall credit
3117 or refund to the seller the full amount of any bad-debt
3118 allowance or refund received.

3119 (e) For the purposes of reporting a payment received on a
3120 previously claimed bad debt, any payments made on a debt or
3121 account shall first be applied proportionally to the taxable
3122 price of the property or service and the sales tax on such
3123 property, and second to any interest, service charges, and any
3124 other charges.

3125 (f) In situations in which the books and records of the
3126 party claiming the bad-debt allowance support an allocation of
3127 the bad debts among states that are members of the Streamlined
3128 Sales and Use Tax Agreement, the allocation is permitted among
3129 those states.

3130 Section 14. Paragraphs (a) and (e) of subsection (3) of
3131 section 212.18, Florida Statutes, are amended to read:

3132 212.18 Administration of law; registration of dealers;
3133 rules.—

3134 (3) (a) Every person desiring to engage in or conduct
3135 business in this state as a dealer, as defined in this chapter,
3136 or to lease, rent, or let or grant licenses in living quarters

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3137 or sleeping or housekeeping accommodations in hotels, apartment
3138 houses, roominghouses, or tourist or trailer camps that are
3139 subject to tax under s. 212.03, or to lease, rent, or let or
3140 grant licenses in real property, as defined in this chapter, and
3141 every person who sells or receives anything of value by way of
3142 admissions, must file with the department an application for a
3143 certificate of registration for each place of business, showing
3144 the names of the persons who have interests in such business and
3145 their residences, the address of the business, and such other
3146 data as the department may reasonably require. However, owners
3147 and operators of vending machines or newspaper rack machines are
3148 required to obtain only one certificate of registration for each
3149 county in which such machines are located. The department, by
3150 rule, may authorize a dealer that uses independent sellers to
3151 sell its merchandise to remit tax on the retail sales price
3152 charged to the ultimate consumer in lieu of having the
3153 independent seller register as a dealer and remit the tax. The
3154 department may appoint the county tax collector as the
3155 department's agent to accept applications for registrations. The
3156 application must be made to the department before the person,
3157 firm, copartnership, or corporation may engage in such business,
3158 and it must be accompanied by a registration fee of \$5. ~~However,~~
3159 ~~a registration fee is not required to accompany an application~~
3160 ~~to engage in or conduct business to make mail order sales.~~ The
3161 department may waive the registration fee for applications
3162 submitted through the department's Internet registration process
3163 or central electronic registration system provided by member
3164 states of the Streamlined Sales and Use Tax Agreement.

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(e) As used in this paragraph, the term "exhibitor" means a person who enters into an agreement authorizing the display of tangible personal property or services at a convention or a trade show. The following provisions apply to the registration of exhibitors as dealers under this chapter:

1. An exhibitor whose agreement prohibits the sale of tangible personal property or services subject to the tax imposed in this chapter is not required to register as a dealer.

2. An exhibitor whose agreement provides for the sale at wholesale only of tangible personal property or services subject to the tax imposed in this chapter must obtain a resale certificate from the purchasing dealer but is not required to register as a dealer.

3. An exhibitor whose agreement authorizes the retail sale of tangible personal property or services subject to the tax imposed in this chapter must register as a dealer and collect the tax imposed under this chapter on such sales.

~~4. Any exhibitor who makes a mail order sale pursuant to s. 212.0596 must register as a dealer.~~

Any person who conducts a convention or a trade show must make their exhibitor's agreements available to the department for inspection and copying.

Section 15. Section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

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(1) The department shall pay over to the Chief Financial Officer of the state all funds received and collected by it under the provisions of this chapter, to be credited to the account of the General Revenue Fund of the state.

(2) The department is authorized to employ all necessary assistants to administer this chapter properly and is also authorized to purchase all necessary supplies and equipment which may be required for this purpose.

(3) The estimated amount of money needed for the administration of this chapter shall be included by the department in its annual legislative budget request for the operation of its office.

~~(4) When there has been a final adjudication that any tax pursuant to s. 212.0596 was levied, collected, or both, contrary to the Constitution of the United States or the State Constitution, the department shall, in accordance with rules, determine, based upon claims for refund and other evidence and information, who paid such tax or taxes, and refund to each such person the amount of tax paid. For purposes of this subsection, a "final adjudication" is a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.~~

(4)(5) For the purposes of this section, the term:

(a) "Proceeds" means all tax or fee revenue collected or received by the department, including interest and penalties.

(b) "Reallocate" means reduction of the accounts of initial deposit and redeposit into the indicated account.

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3221 (5)~~(6)~~ Distribution of all proceeds under this chapter and
3222 s. 202.18(1)(b) and (2)(b) shall be as follows:

3223 (a) Proceeds from the convention development taxes
3224 authorized under s. 212.0305 shall be reallocated to the
3225 Convention Development Tax Clearing Trust Fund.

3226 (b) Proceeds from discretionary sales surtaxes imposed
3227 pursuant to ss. 212.054 and 212.055 shall be reallocated to the
3228 Discretionary Sales Surtax Clearing Trust Fund.

3229 (c) Proceeds from the fees imposed under ss.
3230 212.05(1)(h)3. and 212.18(3) shall remain with the General
3231 Revenue Fund.

3232 (d) The proceeds of all other taxes and fees imposed
3233 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
3234 and (2)(b) shall be distributed as follows:

3235 1. In any fiscal year, the greater of \$500 million, minus
3236 an amount equal to 4.6 percent of the proceeds of the taxes
3237 collected pursuant to chapter 201, or 5.2 percent of all other
3238 taxes and fees imposed pursuant to this chapter or remitted
3239 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
3240 monthly installments into the General Revenue Fund.

3241 2. After the distribution under subparagraph 1., 8.814
3242 percent of the amount remitted by a sales tax dealer located
3243 within a participating county pursuant to s. 218.61 shall be
3244 transferred into the Local Government Half-cent Sales Tax
3245 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
3246 transferred shall be reduced by 0.1 percent, and the department
3247 shall distribute this amount to the Public Employees Relations
3248 Commission Trust Fund less \$5,000 each month, which shall be

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added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

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3277 a. In each fiscal year, the sum of \$29,915,500 shall be
3278 divided into as many equal parts as there are counties in the
3279 state, and one part shall be distributed to each county. The
3280 distribution among the several counties must begin each fiscal
3281 year on or before January 5th and continue monthly for a total
3282 of 4 months. If a local or special law required that any moneys
3283 accruing to a county in fiscal year 1999-2000 under the then-
3284 existing provisions of s. 550.135 be paid directly to the
3285 district school board, special district, or a municipal
3286 government, such payment must continue until the local or
3287 special law is amended or repealed. The state covenants with
3288 holders of bonds or other instruments of indebtedness issued by
3289 local governments, special districts, or district school boards
3290 before July 1, 2000, that it is not the intent of this
3291 subparagraph to adversely affect the rights of those holders or
3292 relieve local governments, special districts, or district school
3293 boards of the duty to meet their obligations as a result of
3294 previous pledges or assignments or trusts entered into which
3295 obligated funds received from the distribution to county
3296 governments under then-existing s. 550.135. This distribution
3297 specifically is in lieu of funds distributed under s. 550.135
3298 before July 1, 2000.

3299 b. The department shall distribute \$166,667 monthly
3300 pursuant to s. 288.1162 to each applicant certified as a
3301 facility for a new or retained professional sports franchise
3302 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
3303 monthly by the department to each certified applicant as defined
3304 in s. 288.11621 for a facility for a spring training franchise.

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3305 However, not more than \$416,670 may be distributed monthly in
3306 the aggregate to all certified applicants for facilities for
3307 spring training franchises. Distributions begin 60 days after
3308 such certification and continue for not more than 30 years,
3309 except as otherwise provided in s. 288.11621. A certified
3310 applicant identified in this sub-subparagraph may not receive
3311 more in distributions than expended by the applicant for the
3312 public purposes provided for in s. 288.1162(5) or s.
3313 288.11621(3).

3314 c. Beginning 30 days after notice by the Office of
3315 Tourism, Trade, and Economic Development to the Department of
3316 Revenue that an applicant has been certified as the professional
3317 golf hall of fame pursuant to s. 288.1168 and is open to the
3318 public, \$166,667 shall be distributed monthly, for up to 300
3319 months, to the applicant.

3320 d. Beginning 30 days after notice by the Office of
3321 Tourism, Trade, and Economic Development to the Department of
3322 Revenue that the applicant has been certified as the
3323 International Game Fish Association World Center facility
3324 pursuant to s. 288.1169, and the facility is open to the public,
3325 \$83,333 shall be distributed monthly, for up to 168 months, to
3326 the applicant. This distribution is subject to reduction
3327 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be
3328 made, after certification and before July 1, 2000.

3329 7. All other proceeds must remain in the General Revenue
3330 Fund.

3331 Section 16. Section 213.052, Florida Statutes, is created
3332 to read:

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213.052 Notice of state sales and use tax rate changes.—

(1) A sales or use tax rate change imposed under chapter 212 is effective on January 1, April 1, July 1, or October 1. The Department of Revenue shall provide notice of such rate change to all affected sellers 60 days before the effective date of the rate change.

(2) Failure of a seller to receive notice does not relieve the seller of its obligation to collect sales or use tax.

Section 17. Section 213.0521, Florida Statutes, is created to read:

213.0521 Effective date of state sales and use tax rate changes.—The effective date for services covering a period starting before and ending after the effective date of a legislative act is as follows:

(1) For a rate increase, the new rate applies to the first billing period starting on or after the effective date.

(2) For a rate decrease, the new rate applies to bills rendered on or after the effective date.

Section 18. Section 213.215, Florida Statutes, is created to read:

213.215 Sales and use tax amnesty upon registration in accordance with the Streamlined Sales and Use Tax Agreement.—

(1) Amnesty shall be provided for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement authorized under s. 213.256, if the seller was not registered with the Department of Revenue in the 12-month period preceding the

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effective date of participation in the agreement by this state.

(2) The amnesty precludes assessment for uncollected or unpaid sales or use tax, together with penalty or interest for sales made during the period the seller was not registered with the Department of Revenue, if registration occurs within 12 months after the effective date of this state's participation in the agreement.

(3) The amnesty is not available to a seller with respect to any matter for which the seller received notice of the commencement of an audit if the audit is not yet finally resolved, including any related administrative and judicial processes.

(4) The amnesty is not available for sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

(5) The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for at least 36 months.

(6) The amnesty applies only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

Section 19. Subsections (1) and (2) of section 213.256, Florida Statutes, are amended to read:

213.256 Simplified Sales and Use Tax Administration Act.—

(1) As used in this section and ss. 213.2562 and 213.2567, the term:

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(a) "Agent" means, for purposes of carrying out the responsibilities placed on a dealer, a person appointed by the seller to represent the seller before the department.

~~"Department" means the Department of Revenue.~~

(b) "Agreement" means the Streamlined Sales and Use Tax Agreement ~~as amended and adopted on January 27, 2001, by the Executive Committee of the National Conference of State Legislatures.~~

(c) "Certified automated system" means software certified jointly by the state ~~states that are signatories to the agreement~~ to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified jointly by the ~~states that are signatories to the agreement~~ to perform all of the seller's sales tax functions other than the seller's obligation to remit tax on its own purchases.

(e) "Department" means the Department of Revenue.

(f) "Governing board" means the governing board of the agreement.

(g)1. "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions other than the seller's obligation to remit tax on the seller's purchases.

2. "Model 2 seller" means a seller that has selected a certified automated system to perform part of the seller's sales and use tax functions, but retains responsibility for remitting the tax.

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3417 3. "Model 3 seller" means a seller that has sales in at
3418 least 5 member states, has total annual sales revenue of at
3419 least \$500 million, has a proprietary system that calculates the
3420 amount of tax due each jurisdiction, and has entered into a
3421 performance agreement with the member states which establishes a
3422 tax performance standard for the seller.

3423
3424 As used in this paragraph, a seller includes an affiliated group
3425 of sellers using the same proprietary system.

3426 (h)-(e) "Person" means an individual, trust, estate,
3427 fiduciary, partnership, limited liability company, limited
3428 liability partnership, corporation, or any other legal entity.

3429 (i) "Registered under this agreement" means registration
3430 by a seller with the member states under the central
3431 registration system.

3432 (j)-(f) "Sales tax" means the tax levied under chapter 212.

3433 (k)-(g) "Seller" means any person making sales, leases, or
3434 rentals of personal property or services.

3435 (l)-(h) "State" means any state of the United States and
3436 the District of Columbia.

3437 (m)-(i) "Use tax" means the tax levied under chapter 212.

3438 (2) (a) The executive director of the department is
3439 authorized to ~~shall~~ enter into an agreement ~~the Streamlined~~
3440 ~~Sales and Use Tax Agreement~~ with one or more states to simplify
3441 and modernize sales and use tax administration in order to
3442 substantially reduce the burden of tax compliance for all
3443 sellers and for all types of commerce. In furtherance of the
3444 agreement, the executive director of the department or his or

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her designee shall act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated systems ~~system~~ and central registration systems ~~establish performance standards for multistate sellers.~~

(b) The executive director of the department or his or her designee shall take other actions reasonably required to administer this section. Other actions authorized by this section include, but are not limited to, the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

(c) The executive director of the department or his or her designee may represent this state before the other states that are signatories to the agreement.

(d) The executive director of the department or his or her designee is authorized to prepare and submit from time to time such reports and certifications as may be determined necessary according to the terms of an agreement and to enter into such other agreements with the governing board, member states, and service providers as are determined by the executive director to facilitate the administration of the tax laws of this state.

Section 20. Section 213.2562, Florida Statutes, is created to read:

213.2562 Approval of software to calculate tax.—The department shall review software submitted to the governing board for certification as a certified automated system. If the software accurately reflects the taxability of product categories included in the program, the department shall certify

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the approval of the software to the governing board.

Section 21. Section 213.2567, Florida Statutes, is created to read:

213.2567 Simplified Sales and Use Tax Agreement registration, certification, liability, and audit.—

(1) A seller that registers under the agreement agrees to collect and remit sales and use taxes for all taxable sales into the member states, including member states joining after the seller's registration. Withdrawal or revocation of this state does not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of the state.

(a) When registering, the seller may select a model 1, model 2, or model 3 method of remittance or other method allowed by state law to remit the taxes collected.

(b) A seller may be registered by an agent. Such an appointment must be in writing and submitted to a member state.

(2)(a) A certified service provider is the agent of a model 1 seller with whom the certified service provider has contracted for the collection and remittance of sales and use taxes. As the model 1 seller's agent, the certified service provider is liable for sales and use tax due this state on all sales transactions it processes for the model 1 seller, except as set out in paragraph (b).

(b) A model 1 seller is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the model 1 seller has misrepresented the type of items it sells or has committed fraud. In the absence of probable cause to believe that the model 1 seller has

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3501 committed fraud or made a material misrepresentation, the model
3502 1 seller is not subject to audit on the transactions processed
3503 by the certified service provider. A model 1 seller is subject
3504 to audit for transactions that have not been processed by the
3505 certified service provider. The member states acting jointly may
3506 perform a system check of the model 1 seller and review the
3507 model 1 seller's procedures to determine if the certified
3508 service provider's system is functioning properly and to
3509 determine the extent to which the model 1 seller's transactions
3510 are being processed by the certified service provider.

3511 (3) A model 2 seller that uses a certified automated
3512 system remains responsible and is liable to this state for
3513 reporting and remitting tax. However, a model 2 seller is not
3514 responsible for errors in reliance on a certified automated
3515 system.

3516 (4) A model 3 seller is liable for the failure of the
3517 proprietary system to meet the performance standard.

3518 (5) A person that provides a certified automated system is
3519 not liable for errors contained in software that was approved by
3520 the department and certified to the governing board. However,
3521 such person:

3522 (a) Is responsible for the proper functioning of that
3523 system;

3524 (b) Is liable to this state for underpayments of tax
3525 attributable to errors in the functioning of the certified
3526 automated system; and

3527 (c) Is liable for the misclassification of an item or
3528 transaction that is not corrected within 10 days after the

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3529 receipt of notice from the department.

3530 (6) The executive director of the department or his or her
3531 designee may certify a person as a certified service provider if
3532 the person meets all of the following requirements:

3533 (a) Uses a certified automated system;

3534 (b) Integrates its certified automated system with the
3535 system of a seller for whom the person collects tax so that the
3536 tax due on a sale is determined at the time of the sale;

3537 (c) Agrees to remit the taxes it collects at the time and
3538 in the manner specified by chapter 212;

3539 (d) Agrees to file returns on behalf of the sellers for
3540 whom it collects tax;

3541 (e) Agrees to protect the privacy of tax information it
3542 obtains in accordance with s. 213.053; and

3543 (f) Enters into a contract with the department and agrees
3544 to comply with the terms of the contract.

3545 (7) The department shall review software submitted to the
3546 governing board for certification as a certified automated
3547 system. The executive director of the department shall certify
3548 the approval of the software to the governing board if the
3549 software:

3550 (a) Determines the applicable state and local sales and
3551 use tax rate for a transaction in accordance with s. 212.06(3)
3552 and (4);

3553 (b) Determines whether an item is exempt from tax;

3554 (c) Determines the amount of tax to be remitted for each
3555 taxpayer for a reporting period; and

3556 (d) Can generate reports and returns as required by the

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governing board.

(8) The department may by rule establish one or more sales tax performance standards for model 3 sellers.

(9) Disclosure of information necessary under this section must be made according to a written agreement between the executive director of the department or his or her designee and the certified service provider. The certified service provider is bound by the same requirements of confidentiality as the department employees. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 22. It is the intent of the Legislature to urge the United States Congress to consider adequate protections for small businesses engaging in both offline and online transactions from added costs, administrative burdens, and requirements imposed on intermediaries relating to the collection and remittance of sales and use tax.

Section 23. The executive director of the Department of Revenue may adopt emergency rules to implement this act. Notwithstanding any other law, the emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

Section 24. Paragraph (a) of subsection (5) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

(a) The Legislative Auditing Committee shall direct the

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Auditor General to make an audit of any municipality whenever petitioned to do so by at least 20 percent of the registered electors in the last general election of that municipality pursuant to this subsection. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the registered electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. 212.20 (5) ~~(6)~~ (d) 5. which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Section 25. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any

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3613 municipality, agency, special district, authority, or other
3614 public body corporate of the state is demonstrated to perform a
3615 function or serve a governmental purpose which could properly be
3616 performed or served by an appropriate governmental unit or which
3617 is demonstrated to perform a function or serve a purpose which
3618 would otherwise be a valid subject for the allocation of public
3619 funds. For purposes of the preceding sentence, an activity
3620 undertaken by a lessee which is permitted under the terms of its
3621 lease of real property designated as an aviation area on an
3622 airport layout plan which has been approved by the Federal
3623 Aviation Administration and which real property is used for the
3624 administration, operation, business offices and activities
3625 related specifically thereto in connection with the conduct of
3626 an aircraft full service fixed base operation which provides
3627 goods and services to the general aviation public in the
3628 promotion of air commerce shall be deemed an activity which
3629 serves a governmental, municipal, or public purpose or function.
3630 Any activity undertaken by a lessee which is permitted under the
3631 terms of its lease of real property designated as a public
3632 airport as defined in s. 332.004(14) by municipalities,
3633 agencies, special districts, authorities, or other public bodies
3634 corporate and public bodies politic of the state, a spaceport as
3635 defined in s. 331.303, or which is located in a deepwater port
3636 identified in s. 403.021(9)(b) and owned by one of the foregoing
3637 governmental units, subject to a leasehold or other possessory
3638 interest of a nongovernmental lessee that is deemed to perform
3639 an aviation, airport, aerospace, maritime, or port purpose or
3640 operation shall be deemed an activity that serves a

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3641 governmental, municipal, or public purpose. The use by a lessee,
3642 licensee, or management company of real property or a portion
3643 thereof as a convention center, visitor center, sports facility
3644 with permanent seating, concert hall, arena, stadium, park, or
3645 beach is deemed a use that serves a governmental, municipal, or
3646 public purpose or function when access to the property is open
3647 to the general public with or without a charge for admission. If
3648 property deeded to a municipality by the United States is
3649 subject to a requirement that the Federal Government, through a
3650 schedule established by the Secretary of the Interior, determine
3651 that the property is being maintained for public historic
3652 preservation, park, or recreational purposes and if those
3653 conditions are not met the property will revert back to the
3654 Federal Government, then such property shall be deemed to serve
3655 a municipal or public purpose. The term "governmental purpose"
3656 also includes a direct use of property on federal lands in
3657 connection with the Federal Government's Space Exploration
3658 Program or spaceport activities as defined in s. 212.02~~(22)~~.
3659 Real property and tangible personal property owned by the
3660 Federal Government or Space Florida and used for defense and
3661 space exploration purposes or which is put to a use in support
3662 thereof shall be deemed to perform an essential national
3663 governmental purpose and shall be exempt. "Owned by the lessee"
3664 as used in this chapter does not include personal property,
3665 buildings, or other real property improvements used for the
3666 administration, operation, business offices and activities
3667 related specifically thereto in connection with the conduct of
3668 an aircraft full service fixed based operation which provides

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goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02~~(15)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

Section 26. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 202.18, Florida Statutes, are amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(1) The proceeds of the taxes remitted under s. 202.12(1)(a) shall be divided as follows:

(b) The remaining portion shall be distributed according to s. 212.20(5)~~(6)~~.

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(2) The proceeds of the taxes remitted under s.

202.12(1)(b) shall be divided as follows:

(b) Sixty-three percent of the remainder shall be allocated to the state and distributed pursuant to s. 212.20 (5) ~~(6)~~, except that the proceeds allocated pursuant to s. 212.20 (5) ~~(6)~~ (d) 2. shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).

Section 27. Paragraphs (f), (g), (h), and (i) of subsection (1) of section 203.01, Florida Statutes, are amended to read:

203.01 Tax on gross receipts for utility and communications services.—

(1)

(f) Any person who imports into this state electricity, natural gas, or manufactured gas, or severs natural gas, for that person's own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under this chapter and who cannot demonstrate payment of the tax imposed by this chapter must register with the Department of Revenue and pay into the State Treasury each month an amount equal to the cost price of such electricity, natural gas, or manufactured gas times the rate set forth in paragraph (b), reduced by the amount of any like tax lawfully imposed on and paid by the person from whom the electricity, natural gas, or manufactured gas was purchased or any person who provided delivery service or transportation service in connection with

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the electricity, natural gas, or manufactured gas. For purposes of this paragraph, the term "cost price" has the meaning ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of payment and the amount of such reductions in tax shall be made according to rules of the Department of Revenue.

(g) Electricity produced by cogeneration or by small power producers which is transmitted and distributed by a public utility between two locations of a customer of the utility pursuant to s. 366.051 is subject to the tax imposed by this section. The tax shall be applied to the cost price of such electricity as provided in s. 212.02~~(4)~~ and shall be paid each month by the producer of such electricity.

(h) Electricity produced by cogeneration or by small power producers during the 12-month period ending June 30 of each year which is in excess of nontaxable electricity produced during the 12-month period ending June 30, 1990, is subject to the tax imposed by this section. The tax shall be applied to the cost price of such electricity as provided in s. 212.02~~(4)~~ and shall be paid each month, beginning with the month in which total production exceeds the production of nontaxable electricity for the 12-month period ending June 30, 1990. For purposes of this paragraph, "nontaxable electricity" means electricity produced by cogeneration or by small power producers which is not subject to tax under paragraph (g). Taxes paid pursuant to paragraph (g) may be credited against taxes due under this paragraph.

Electricity generated as part of an industrial manufacturing process which manufactures products from phosphate rock, raw wood fiber, paper, citrus, or any agricultural product shall not

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be subject to the tax imposed by this paragraph. "Industrial manufacturing process" means the entire process conducted at the location where the process takes place.

(i) Any person other than a cogenerator or small power producer described in paragraph (h) who produces for his or her own use electrical energy which is a substitute for electrical energy produced by an electric utility as defined in s. 366.02 is subject to the tax imposed by this section. The tax shall be applied to the cost price of such electrical energy as provided in s. 212.02~~(4)~~ and shall be paid each month. The provisions of this paragraph do not apply to any electrical energy produced and used by an electric utility.

Section 28. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Tax on rental or license fee for use of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or

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the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port

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3809 authority for the purpose of loading or unloading passengers or
3810 cargo onto or from such a vessel, or property used at a port
3811 authority for fueling such vessels, or to the extent that the
3812 amount paid for the use of any property at the port is based on
3813 the charge for the amount of tonnage actually imported or
3814 exported through the port by a tenant.

3815 b. The amount charged for the use of any property at the
3816 port in excess of the amount charged for tonnage actually
3817 imported or exported shall remain subject to tax except as
3818 provided in sub-subparagraph a.

3819 9. Property used as an integral part of the performance of
3820 qualified production services. As used in this subparagraph, the
3821 term "qualified production services" means any activity or
3822 service performed directly in connection with the production of
3823 a qualified motion picture, as defined in s. 212.06(1)(b), and
3824 includes:

3825 a. Photography, sound and recording, casting, location
3826 managing and scouting, shooting, creation of special and optical
3827 effects, animation, adaptation (language, media, electronic, or
3828 otherwise), technological modifications, computer graphics, set
3829 and stage support (such as electricians, lighting designers and
3830 operators, greensmen, prop managers and assistants, and grips),
3831 wardrobe (design, preparation, and management), hair and makeup
3832 (design, production, and application), performing (such as
3833 acting, dancing, and playing), designing and executing stunts,
3834 coaching, consulting, writing, scoring, composing,
3835 choreographing, script supervising, directing, producing,
3836 transmitting dailies, dubbing, mixing, editing, cutting,

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looping, printing, processing, duplicating, storing, and
distributing;

b. The design, planning, engineering, construction,
alteration, repair, and maintenance of real or personal property
including stages, sets, props, models, paintings, and facilities
principally required for the performance of those services
listed in sub-subparagraph a.; and

c. Property management services directly related to
property used in connection with the services described in sub-
subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of
the certificate of exemption issued to the taxpayer under the
provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person
providing food and drink concessionaire services within the
premises of a convention hall, exhibition hall, auditorium,
stadium, theater, arena, civic center, performing arts center,
publicly owned recreational facility, or any business operated
under a permit issued pursuant to chapter 550. A person
providing retail concessionaire services involving the sale of
food and drink or other tangible personal property within the
premises of an airport shall be subject to tax on the rental of
real property used for that purpose, but shall not be subject to
the tax on any license to use the property. For purposes of this
subparagraph, the term "sale" shall not include the leasing of
tangible personal property.

11. Property occupied pursuant to an instrument calling

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for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02~~(23)~~, or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

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13. Rented, leased, subleased, or licensed to a person providing telecommunications, data systems management, or Internet services at a publicly or privately owned convention hall, civic center, or meeting space at a public lodging establishment as defined in s. 509.013. This subparagraph applies only to that portion of the rental, lease, or license payment that is based upon a percentage of sales, revenue sharing, or royalty payments and not based upon a fixed price. This subparagraph is intended to be clarifying and remedial in nature and shall apply retroactively. This subparagraph does not provide a basis for an assessment of any tax not paid, or create a right to a refund of any tax paid, pursuant to this section before July 1, 2010.

Section 29. Paragraph (b) of subsection (1) of section 212.052, Florida Statutes, is amended to read:

212.052 Research or development costs; exemption.—

(1) For the purposes of the exemption provided in this section:

(b) The term "costs" means cost price as defined in s. 212.02~~(4)~~.

Section 30. Paragraph (c) of subsection (2), paragraph (c) of subsection (3), and paragraphs (c) and (i) of subsection (8) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the

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levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(3) SMALL COUNTY SURTAX.—

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3949 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax
3950 levied under this subsection shall be distributed to the county
3951 and the municipalities within the county in which the surtax was
3952 collected, according to:

3953 1. An interlocal agreement between the county governing
3954 authority and the governing bodies of the municipalities
3955 representing a majority of the county's municipal population,
3956 which agreement may include a school district with the consent
3957 of the county governing authority and the governing bodies of
3958 the municipalities representing a majority of the county's
3959 municipal population; or

3960 2. If there is no interlocal agreement, according to the
3961 formula provided in s. 218.62.

3962
3963 Any change in the distribution formula shall take effect on the
3964 first day of any month that begins at least 60 days after
3965 written notification of that change has been made to the
3966 department.

3967 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3968 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the
3969 discretionary sales surtax collected under this subsection, less
3970 an administrative fee that may be retained by the Department of
3971 Revenue, shall be distributed by the department to the county.
3972 The county shall distribute the proceeds it receives from the
3973 department to the participating jurisdictions that have entered
3974 into an interlocal agreement with the county under this
3975 subsection. The county may also charge an administrative fee for
3976 receiving and distributing the surtax in the amount of the

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actual costs incurred, not to exceed 2 percent of the surtax collected.

(i) Surtax collections shall be initiated on January 1 of the year following a successful referendum ~~in order to coincide with s. 212.054(5).~~

Section 31. Subsection (3) of section 212.13, Florida Statutes, is amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property or services licensed within this state is required to permit the department to examine his or her books and records at all reasonable hours, and, upon his or her refusal, the department may require him or her to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state. When the dealer has made an allocation or attribution pursuant to the definition of sales price in s. 212.02~~(16)~~, the department may prescribe by rule the books and records that must be made available during an audit of the dealer's books and records and examples of methods for determining the reasonableness thereof. Books and records kept in the regular course of business include, but are not limited to, general ledgers, price lists, cost records, customer billings, billing system reports, tariffs, and other regulatory

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filings and rules of regulatory authorities. Such record may be required to be made available to the department in an electronic format when so kept by the dealer. The dealer may support the allocation of charges with books and records kept in the regular course of business covering the dealer's entire service area, including territories outside this state. During an audit, the department may reasonably require production of any additional books and records found necessary to assist in its determination.

Section 32. Subsection (1) of section 212.15, Florida Statutes, is amended to read:

212.15 Taxes declared state funds; penalties for failure to remit taxes; due and delinquent dates; judicial review.—

(1) The taxes imposed by this chapter shall, ~~except as provided in s. 212.06(5)(a)2.e.,~~ become state funds at the moment of collection and shall for each month be due to the department on the first day of the succeeding month and be delinquent on the 21st day of such month. All returns postmarked after the 20th day of such month are delinquent.

Section 33. Subsection (3) of section 213.015, Florida Statutes, is amended to read:

213.015 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical

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terms, the rights and obligations of the Department of Revenue and taxpayers. Section 192.0105 provides additional rights afforded to payors of property taxes and assessments. The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

(3) The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department, the right to procedural safeguards with respect to recording of interviews during tax determination or collection processes conducted by the department, the right to be treated in a professional manner by department personnel, and the right to have audits, inspections of records, and interviews conducted at a reasonable time and place except in criminal and internal investigations (see ss. 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~, 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

Section 34. Subsection (3) of section 218.245, Florida Statutes, is amended to read:

218.245 Revenue sharing; apportionment.—

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20 (5) ~~(6)~~ (d) 5. from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of Florida, shall be distributed to

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each eligible municipality and any unit of local government that is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments. However, for the purpose of calculating this distribution, the amount received from the half-cent sales tax under s. 218.61 in the prior state fiscal year by a unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as amended, and as preserved by s. 6(e), Art. VIII, of the Constitution as revised in 1968, shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Section 35. Subsections (5), (6), and (7) of section 218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year

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ordinary distributions to the county pursuant to ss. 212.20 (5) ~~(6)~~ (d) 2., 218.61, and 218.62. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 (5) ~~(6)~~ (d) 3., excluding moneys appropriated for supplemental distributions pursuant to subsection (8), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount, less any amounts distributed under subsection (6), shall be distributed equally on a per capita basis among the eligible counties.

(6) If moneys deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 (5) ~~(6)~~ (d) 3. exceed the amount necessary to provide the base allocation to each eligible county, the moneys in the trust fund may be used to provide a transitional distribution, as specified in this subsection, to certain counties whose population has increased. The transitional distribution shall be made available to each county that qualified for a distribution under subsection (2) in the prior year but does not, because of the requirements of paragraph (2) (a), qualify for a distribution in the current year. Beginning on July 1 of the year following the year in which the county no longer qualifies for a distribution under subsection (2), the county shall receive two-thirds of the amount received in the prior year, and beginning July 1 of the second year following the year in which the county no longer

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4117 qualifies for a distribution under subsection (2), the county
4118 shall receive one-third of the amount it received in the last
4119 year it qualified for the distribution under subsection (2). If
4120 insufficient moneys are available in the Local Government Half-
4121 cent Sales Tax Clearing Trust Fund to fully provide such a
4122 transitional distribution to each county that meets the
4123 eligibility criteria in this section, each eligible county shall
4124 receive a share of the available moneys proportional to the
4125 amount it would have received had moneys been sufficient to
4126 fully provide such a transitional distribution to each eligible
4127 county.

4128 (7) There is hereby annually appropriated from the Local
4129 Government Half-cent Sales Tax Clearing Trust Fund the
4130 distribution provided in s. 212.20 (5) ~~(6)~~ (d) 3. to be used for
4131 emergency and supplemental distributions pursuant to this
4132 section.

4133 Section 36. Paragraph (s) of subsection (1) of section
4134 288.1045, Florida Statutes, is amended to read:

4135 288.1045 Qualified defense contractor and space flight
4136 business tax refund program.—

4137 (1) DEFINITIONS.—As used in this section:

4138 (s) "Space flight business" means the manufacturing,
4139 processing, or assembly of space flight technology products,
4140 space flight facilities, space flight propulsion systems, or
4141 space vehicles, satellites, or stations of any kind possessing
4142 the capability for space flight, as defined by s. 212.02 ~~(23)~~, or
4143 components thereof, and includes, in supporting space flight,
4144 vehicle launch activities, flight operations, ground control or

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ground support, and all administrative activities directly related to such activities. The term does not include products that are designed or manufactured for general commercial aviation or other uses even if those products may also serve an incidental use in space flight applications.

Section 37. Paragraphs (a) and (d) of subsection (3) of section 288.11621, Florida Statutes, are amended to read:

288.11621 Spring training baseball franchises.—

(3) USE OF FUNDS.—

(a) A certified applicant may use funds provided under s. 212.20 (5) ~~(6)~~ (d) 6.b. only to:

1. Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

3. Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

(d)1. All certified applicants must place unexpended state funds received pursuant to s. 212.20 (5) ~~(6)~~ (d) 6.b. in a trust fund or separate account for use only as authorized in this section.

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4173 2. A certified applicant may request that the Department
4174 of Revenue suspend further distributions of state funds made
4175 available under s. 212.20 (5) ~~(6)~~ (d) 6.b. for 12 months after
4176 expiration of an existing agreement with a spring training
4177 franchise to provide the certified applicant with an opportunity
4178 to enter into a new agreement with a spring training franchise,
4179 at which time the distributions shall resume.

4180 3. The expenditure of state funds distributed to an
4181 applicant certified before July 1, 2010, must begin within 48
4182 months after the initial receipt of the state funds. In
4183 addition, the construction of, or capital improvements to, a
4184 spring training facility must be completed within 24 months
4185 after the project's commencement.

4186 Section 38. Subsection (6) of section 288.1169, Florida
4187 Statutes, is amended to read:

4188 288.1169 International Game Fish Association World Center
4189 facility.—

4190 (6) The Department of Commerce must recertify every 10
4191 years that the facility is open, that the International Game
4192 Fish Association World Center continues to be the only
4193 international administrative headquarters, fishing museum, and
4194 Hall of Fame in the United States recognized by the
4195 International Game Fish Association, and that the project is
4196 meeting the minimum projections for attendance or sales tax
4197 revenues as required at the time of original certification. If
4198 the facility is not recertified during this 10-year review as
4199 meeting the minimum projections, then funding shall be abated
4200 until certification criteria are met. If the project fails to

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4201 generate \$1 million of annual revenues pursuant to paragraph
4202 (2)(e), the distribution of revenues pursuant to s.
4203 212.20 (5) ~~(6)~~ (d) 6.d. shall be reduced to an amount equal to
4204 \$83,333 multiplied by a fraction, the numerator of which is the
4205 actual revenues generated and the denominator of which is \$1
4206 million. Such reduction remains in effect until revenues
4207 generated by the project in a 12-month period equal or exceed \$1
4208 million.

4209 Section 39. Subsection (8) of section 551.102, Florida
4210 Statutes, is amended to read:

4211 551.102 Definitions.—As used in this chapter, the term:

4212 (8) "Slot machine" means any mechanical or electrical
4213 contrivance, terminal that may or may not be capable of
4214 downloading slot games from a central server system, machine, or
4215 other device that, upon insertion of a coin, bill, ticket,
4216 token, or similar object or upon payment of any consideration
4217 whatsoever, including the use of any electronic payment system
4218 except a credit card or debit card, is available to play or
4219 operate, the play or operation of which, whether by reason of
4220 skill or application of the element of chance or both, may
4221 deliver or entitle the person or persons playing or operating
4222 the contrivance, terminal, machine, or other device to receive
4223 cash, billets, tickets, tokens, or electronic credits to be
4224 exchanged for cash or to receive merchandise or anything of
4225 value whatsoever, whether the payoff is made automatically from
4226 the machine or manually. The term includes associated equipment
4227 necessary to conduct the operation of the contrivance, terminal,
4228 machine, or other device. Slot machines may use spinning reels,

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video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02~~(24)~~ or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 40. Paragraph (a) of subsection (1) of section 790.0655, Florida Statutes, is amended to read:

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.—

(1)(a) There shall be a mandatory 3-day waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02~~(13)~~.

Section 41. Section 212.0596, Florida Statutes, is repealed.

Section 42. This act shall take effect January 1, 2012.